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## **Statutes & Regulations**

N.J.S.A. 45:6-1 through 45:6-69 and

N.J.A.C. 13:30-1.1 through 13:30-8.22

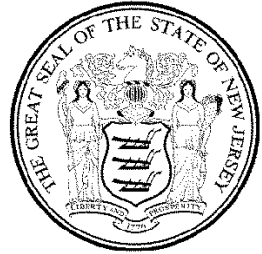
### **New Jersey State Board of Dentistry**

Division of Consumer Affairs

N.J. Department of Law & Public Safety

As of August 2000

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# New Jersey State Board of Dentistry



New Jersey Department of Law & Public Safety



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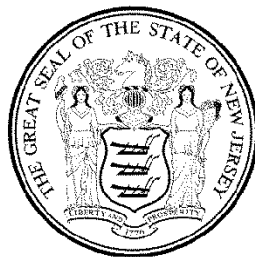
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# New Jersey State Board of Dentistry

*Governor*

Christine Todd Whitman

*Attorney General*

John J. Farmer, Jr.

*Director*

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# New Jersey Statutes Annotated

## Title 45, Chapter 6.

### New Jersey State Board of Dentistry

45:6-1. State board of dentistry; membership; appointments; terms

The State Board of Registration and Examination in Dentistry in the Division of Professional Boards of the Department of Law and Public Safety, hereinafter in this chapter designated as the “board,” created and established by an act entitled “An act to regulate the practice of dentistry in the State of New Jersey, and to repeal certain acts now relating to the same,” approved March 31, 1915 (L.1915, c. 146, p. 261), as amended and supplemented, is continued, and shall hereafter be known and designated as the New Jersey State Board of Dentistry. Wherever in any law, rule, regulation, judicial or administrative proceeding or otherwise, reference is made to the State Board of Registration and Examination in Dentistry, the same shall mean and refer to the New Jersey State Board of Dentistry.

In addition to two public members, the board shall consist of nine members, eight of whom shall have resided and practiced dentistry in this State for at least 10 years each immediately preceding their appointments and one of whom shall be a dental hygienist appointed by the Governor for a term of 4 years. In appointing such dental hygienist, the Governor shall give due consideration to, but shall not be bound by, the recommendation of the New Jersey Dental Hygienists Association. Upon the expiration of the term of office of any member, his successor shall be appointed by the Governor, subject to the provisions of section 45:1-2 of this Title, for a term of 4 years, except that the successors of the members whose terms will expire on June 4, 1949, shall be appointed each for a term expiring on August 31, 1952; the successors of the members whose terms will expire on November 9, 1949, and January 7, 1950, respectively, shall be appointed each for a term expiring on August 31, 1953; the successors of the members whose terms will expire on July 31, 1950, and October 8, 1950, respectively, shall be appointed each for a term expiring on August 31, 1954; and the successors of the members whose terms will expire on July 30, 1951, and November 4, 1951, respectively, shall be appointed each for a term expiring on August 31, 1955. Each member shall hold his office until his successor is appointed and qualifies. Any vacancy in the membership of the board, occurring from any cause, shall be filled by the Governor for the unexpired term only. Upon cause being shown before him, the Gover-

nor may remove a member from office upon proven charges of inefficiency, incompetency, immorality or professional misconduct.

#### 45:6-1.1. Compensation for participation in examinations

In addition to traveling and other expenses incurred in the performance of his duties by a member of the State Board of Registration and Examination in Dentistry to which said member is entitled pursuant to the provisions of section 45:1-3 of the Revised Statutes, each such member shall be entitled to \$225.00 for each of the examination parts of 2 clinical practical tests each, conducted outside the city of Trenton, in which he participates, but to no more than \$1,125.00 in any 1 year, which sum shall be paid from the license fees and other sources of income of the said board.

#### 45:6-2. Officers; meetings; quorum; rating of dental schools, etc.; reports; seal

The board shall, at its annual meeting, elect from its members a president, and an officer to be known as secretary-treasurer, which officer may or may not be a member of the board; and it shall hold at least two meetings annually for examining and licensing persons to practice dentistry, at which meetings five members shall constitute a quorum. The board shall have power to determine the good standing and repute of any dental school, college or department of a university, and may from time to time designate, in a public manner, schools, colleges or departments of universities, whose diplomas will be received by it; and it shall annually make a report of its proceedings to the governor and to the New Jersey State Dental Society. The seal heretofore adopted by it shall continue to be the common seal of the board.

#### 45:6-3. Rules; examinations; qualifications of applicants for examination

The board shall from time to time adopt rules for its own government and for the examination of candidates for licenses to practice dentistry. Any rule altering the nature or increasing the severity of the examination or the subjects to be included therein shall not be enforced until six months after its adoption and public promulgation. The examination of applicants shall be confined to written or oral, or both written and oral, examinations upon subjects properly relating to the science of dentistry, the knowledge of which is necessary to the proper and skillful practice of said science. The board may also require from applicants, as part of the examination, demonstration of their skill in operative and prosthetic dentistry. No person

shall be examined by the board unless he is at least 18 years of age, of good moral character, and shall present to the board a certificate from the Commissioner of Education of this State, showing that before entering a dental college he had obtained an academic education consisting of a four-year course of study in an approved public or private high school or the equivalent thereof, unless he has been graduated in course with a dental degree from a dental school, college or department of a university approved by the board, or holds a diploma or license conferring full right to practice dentistry in some foreign country and granted by some authority recognized by the board. Any member of the board may inquire of any applicant for examination concerning his qualifications, and may take testimony of anyone in regard thereto, under oath, which he is hereby empowered to administer.

Notwithstanding any provision of law to the contrary, no person who is a graduate of an unapproved dental school shall be examined by the board unless he has successfully completed at least two years of study of a board approved curriculum at a dental school, college or department of a university approved by the board, with a dental degree having been conferred by the school.

#### **45:6-4. Application and fee**

Every applicant for a license shall file his application with and pay a fee of fifty dollars (\$50.00) to the secretary-treasurer of the board and present himself for examination at the first regular meeting of the board after such application, due notice of which shall be given. Such fee shall not be refunded, unless from sickness or other good cause appearing to the satisfaction of the board such applicant was prevented from attending and completing such examination. Further or subsequent examinations under such application may be given to applicants, in the discretion of the board, upon payment of an additional fee of twenty dollars (\$20.00).

#### **45:6-5. Receipts and expenditures; secretary-treasurer's bond**

All moneys received shall be held by the secretary-treasurer and paid out only upon resolution of the board and warrant of its president. The secretary-treasurer shall give bond in such sum and with such surety as the board may, from time to time, direct and approve. A statement of all moneys received and disbursed by the board shall be annually submitted to the governor in the annual report of the board.

#### 45:6-6. Issuance of licenses; reciprocal licenses; fees

The board shall register as licensed dentists, and, under its seal and the hand of its president and secretary-treasurer, shall issue to all persons who successfully pass said examination its license to practice dentistry. The board may, in its discretion, without such examination, issue its license to practice dentistry to any applicant therefor who desires to remove to this state from another state of the United States or from a foreign country, in which he was licensed to practice dentistry and has conducted the practice of dentistry for at least five years immediately preceding the application to the board for such license, if such applicant presents proof, by affidavit or otherwise, of the facts above mentioned, and presents a certificate from the board of dental examiners or from the board or official exercising similar powers of the state or county from which he desires to remove, certifying that he is a competent dentist or dental surgeon, and of good moral character, and if such certificate is presented to the board of this state not more than six months after its date of issue, and if the board or official issuing such certificate recognizes, in like manner, certificates issued by the board of this state and presented to them by licensed practitioners of dentistry of this state. The board may, in its discretion, refuse to issue licenses under this section without examination to any person not qualified under this chapter for admission to examination for license to practice dentistry. The fee for issuing any such license without examination shall be fifty dollars, which shall be paid before its issuance. The board may issue to any person known to it to be competent and of good moral character, who is licensed to practice dentistry in this state, and who desires to change his residence to another state or foreign country, a certificate over the signature of its president and secretary-treasurer, authenticated with its seal, which shall attest the facts above mentioned and give the date upon which such person was licensed to practice dentistry. The fee for issuing such certificate shall be five dollars, which shall be paid before its issuance.

45:6-7. Repealed by L.1999, c. 403, § 12, eff. Jan. 18, 2000

45:6-7.1. Notification to pharmacists regarding dentists no longer permitted to prescribe or administer controlled substances

The New Jersey State Board of Dentistry shall notify each pharmacy owner in the State in writing of any dentist permitted to prescribe or administer a controlled dangerous substance in the course of professional practice whose license to practice has been suspended, revoked, or voluntarily surrendered, or who has been ordered to cease and desist from pre-

scribing or administering certain substances. The board shall also notify the pharmacy owners when the dentist's license to practice or authority to prescribe or administer certain substances has been reinstated.

Pursuant to section 4 of P.L. 1991, c.304 (C.45:14-3.2), the board shall request the Board of Pharmacy of the State of New Jersey to provide the board with a list of names and addresses of the pharmacy owners in the State.

45:6-8. Repealed by L.1979, c.432, §1, eff. Feb.14, 1980

45:6-9. Repealed by L.1953, c.43, §19, eff. March 19, 1953

45:6-10. Annual certificate of registration; nonactive certificate; branch offices; retired dentists

Every licensed dentist shall procure from the secretary-treasurer of the board on or before November 1 each year an annual certificate of registration. Such certificate shall be issued by the secretary-treasurer upon payment of a fee of \$8.00 for those in active practice within the State or \$4.00 for those not practicing within the State; provided, however, that any dentist licensed after July 1 in any year shall only pay a registration fee of \$2.00 for the remainder of such year. A nonactive registration certificate shall be issued to those not practicing within the State and should a nonactive registrant desire to practice during the registration year he may upon payment of an additional \$4.00 to the secretary-treasurer with the return of the nonactive registration certificate for cancellation, be issued an active certificate of registration. All active certificates so issued shall be prima facie evidence of the right of the holder to practice dentistry in this State.

Every licensee holding an active registration certificate who may practice at any place other than that address for which his active registration certificate is issued shall be required to obtain from the secretary-treasurer for a fee of \$2.00 a branch office registration certificate for each and every location wherein he practices; provided, that nothing herein contained, shall be construed to require an active licensee to obtain a branch office certificate for the purpose of serving on the staff of a hospital or institution which receives no fees (other than entrance registration fees) for the services rendered by the dentist and that the dentist receives no fees or compensation directly or indirectly for such services rendered; and further provided, that nothing herein contained shall be construed to require an active licensee to obtain a branch office certificate for the purpose of rendering necessary

dental services for their patients confined to their homes, hospitals or institutions.

The secretary-treasurer of the board shall, on or before October 1 each year, mail to each licensed dentist, a printed blank form to be properly filled out and returned by such licensed person to said secretary-treasurer, together with the fee herein fixed for such annual registration. Upon receipt of such form and fee, the annual certificate of registration shall be issued and transmitted. The board shall cause a notice to be inserted in not less than 3 newspapers, 1 in the city of Trenton, 1 in the city of Camden, and 1 in the city of Newark, to the effect that such annual registration will be required. Such notice shall be printed in such papers, once a week for 3 consecutive weeks between September 1 and October 1, each year. Any person who, for at least 25 years, shall have been licensed to practice dentistry in New Jersey and who desires to retire from the practice thereof, and during his retirement to refrain from practicing dentistry, upon application to the secretary-treasurer of the board, may be registered annually, without the payment of any registration fee, as a retired dentist. The certificate of registration which shall be issued to a retired dentist shall state, among other things, that the holder has been licensed to practice dentistry in New Jersey but that during his retirement he shall not practice dentistry. The holder of a certificate of registration as a retired dentist shall be entitled to resume the practice of dentistry at any time; provided, he first shall have obtained from the secretary-treasurer an annual certificate of registration as hereinbefore provided. The license of any person who fails to procure any annual certificate of registration, or in lieu thereof an annual certificate of registration as a retired dentist, at the time and in the manner required by this section may be suspended by the board in the manner provided by sections 45:6-7 to 45:6-9 of this Title. Any license so suspended shall be reinstated at any time within 3 years from the date of such suspension upon the payment of all past due annual registration fees and an additional reinstatement fee of \$25.00. Any person whose license shall have been suspended for such cause shall, during the period of such suspension, be regarded as an unlicensed person and, in case he shall continue or engage in the practice of dentistry during such period, shall be liable to the penalties prescribed by section 45:6-13 of this Title for practicing dentistry without a license. Any person to whom a certificate of registration as a retired dentist shall have been issued who shall continue or engage in the practice of dentistry without first having obtained a certificate of registration authorizing him to resume the practice of dentistry, shall be liable to the penalties prescribed by section 45:6-13 of this Title for practicing dentistry without a license.

**45:6-10.1. Continuing education credits required for biennial registration**

The New Jersey State Board of Dentistry shall require each person licensed as a dentist, as a condition for biennial registration pursuant to R.S. 45:6-10 and P.L.1972, c.108 (C. 45:1-7), to complete 40 credits of continuing dental education as provided in section 2 of this act<sup>1</sup> during each biennial registration period.

<sup>1</sup> N.J.S.A. § 45:6-10.2.

**45:6-10.2. Standards for continuing education; accreditation of programs**

**a. The board shall:**

- (1) Establish standards for continuing dental education, including the subject matter and content of courses of study;
- (2) Accredite educational programs offering credit towards the continuing dental education requirements; and
- (3) Accredite other equivalent educational programs, including, but not limited to, meetings of constituents and components of dental professional associations recognized by the board, examinations, papers, publications, scientific presentations, teaching and research appointments, table clinics and scientific exhibits, and shall establish procedures for the issuance of credit upon satisfactory proof of the completion of these programs.

**b. In the case of education courses or programs, each hour of instruction shall be equivalent to one credit.**

**45:6-10.3. Monitoring procedures; compliance with education requirements; providers of continuing education**

The board may:

- a. Establish procedures for monitoring compliance with the continuing dental education requirements; and
- b. Establish procedures to evaluate and grant approval to providers of continuing dental education courses.

#### **45:6-10.4. Waiver of continuing education requirements**

The board may in its discretion, waive requirements for continuing dental education on an individual basis for reasons of hardship such as illness or disability, retirement of the license, or other good cause.

#### **45:6-10.5. Initial registration; continuing education credits not required**

The board shall not require completion of continuing dental education credits for initial registration.

#### **45:6-10.6. Registration periods commencing within 12 and 24 months; continuing education requirements**

- a. The board shall not require completion of continuing dental education credits for any registration periods commencing within 12 months of the effective date of this act.
- b. The board shall require completion of continuing dental education credits on a pro rata basis for any registration periods commencing more than 12 but less than 24 months following the effective date of this act.

#### **45:6-10.7. Proof of completion of continuing education requirement**

The board shall accept as proof of completion of continuing education program credits documentation submitted by a person licensed as a dentist or by any entity offering a continuing education program approved by the board pursuant to section 2 of this act.<sup>1</sup>

<sup>1</sup>N.J.S.A. § 45:6-10.2.

#### **45:6-10.8. Penalties**

Any person who fails to complete the continuing dental education requirements established pursuant to section 1 of this act shall be liable to a civil penalty of not more than \$500 or additional hours of continuing dental education, or both, as imposed by the board, for a first offense. A second or subsequent offense by a licensee shall be considered professional misconduct pursuant to the provisions of chapter 6 of Title 45 of the Revised Statutes and P.L.1978 c. 73 (C. 45:1-14 et seq.).

**45:6-10.9. Differential in course fees based on dental association membership**

The board shall permit any dental association offering a continuing education program approved by the board pursuant to section 2 of this act<sup>1</sup> to impose a reasonable differential in registration fees for courses upon licensed dentists who are not members of that dental association

<sup>1</sup>N.J.S.A. § 45:6-10.2.

**45:6-11. Licensees to furnish names of practitioners or assistants in office; display of certificate; inspection of offices, etc.**

Every person practicing dentistry in this state shall, upon demand in writing made by the secretary-treasurer of the board, furnish, within thirty days after said demand to the secretary-treasurer, the name and address of each and every person practicing dentistry, or assisting in the practice thereof, in the office of such person. For failure so to do, he shall be liable to a penalty of twenty-five dollars, and costs. Every person practicing dentistry in this state shall at all times display his registration certificate for the current year in a conspicuous place in his main operating room where the same shall be in plain view of patients, and every person who practices dentistry within the meaning of this chapter without having such certificate on display as herein required shall be liable to a penalty of fifty dollars, besides costs. Every member and employee of the board, when identified as herein provided, shall be authorized during ordinary business hours to enter and inspect any dental office or dental laboratory for the purpose of enforcing the provisions of this chapter. Each member and employee of the board shall, when inspecting any dental office or laboratory, carry and exhibit when properly requested, a card stating his name and connection with the board, verified by the signatures of the president and secretary-treasurer of the board and by its seal.

**45:6-12. Practice of dentistry by corporations prohibited; practice under firm name regulated**

No corporation shall practice or continue to practice, offer or undertake to practice, or hold itself out as practicing dentistry. No person shall practice or continue to practice dentistry as an officer, agent or employee of any corporation, or under the name of any corporation. No person shall practice or continue to practice dentistry under any firm name or trade name or under any name other than his true name, but nothing herein contained shall prohibit the practice of dentistry by a partnership under a firm name

containing nothing but the surname of every member of the partnership, and that nothing herein contained shall prohibit a licensed dentist from practicing under his own name or under a firm name containing only the surnames of each member of such firm. Every person or corporation, violating any of the foregoing provisions of this section shall be subject to a penalty of three hundred dollars for the first offense and six hundred dollars for the second and each subsequent offense.

Every person practicing dentistry under a firm name as herein authorized and every person practicing dentistry or as an employee of another shall cause his name to be conspicuously displayed and kept in a conspicuous place at the entrance of the place where such practice shall be conducted, and any person who shall neglect to cause his name to be displayed as herein required, shall be liable to a penalty of one hundred dollars.

#### **45:6-13.           Penalty for practicing without license**

No person shall practice dentistry within the meaning of this chapter unless licensed so to do, and no person shall be deemed so licensed unless he is now licensed and registered so to do or shall hereafter be licensed and registered under the provisions of this chapter. No person shall employ, for a stated salary or otherwise, or give aid or assist any person not regularly licensed to practice dentistry to perform any dental operation upon human beings in this State. Any person who violates any of the provisions of this section or of any provision of this chapter shall be subject to a penalty of \$300.00 for the first offense and of \$2,000.00 for the second and each subsequent offense unless otherwise specifically provided.

#### **45:6-14.           Construction of chapter as to unlicensed persons and as to physicians**

This chapter shall not be construed to prohibit an unlicensed person from performing mechanical work upon inert matter in a dental office or laboratory; nor to prohibit a duly licensed physician from treating the diseases of the mouth or performing operations in oral surgery; and nothing in this chapter shall be construed to permit the performance of dental operations by any unlicensed person under cover of the name of a registered practitioner.

45:6-15. Repealed by L.1951, c.199, § 15, eff. June 8, 1951

45:6-15.1. "Dental clinic" defined

Dental clinic, as used in this act, shall mean and include any clinic, infirmary, hospital, institution or other place of any kind whatsoever, in which science of dentistry in any of its branches is practiced, demonstrated or taught, upon or with respect to human beings but shall not include the private office of a regularly licensed dentist of this State.

45:6-15.2. Permit to operate dental clinic

No industrial or corporate dental clinic shall be established, operated, conducted or maintained in this State unless and until a permit to do so has first been obtained from the State Board of Registration and Examination in Dentistry (hereinafter referred to as the board). Application for such permit shall be in the form prescribed by the board. All such permits shall expire on December thirty-first of each year.

45:6-15.3. Rules and regulations; standards

The board shall adopt rules and regulations and establish standards for the establishment, operation, conduct and maintenance of industrial or corporate dental clinics.

45:6-15.4. Council on dental clinics; membership; vacancies; compensation

There is hereby established a council on dental clinics which shall consist of seven members, each of whom shall be chosen with due regard to his knowledge of and interest in the practice of dentistry. Three members thereof shall consist of one representative of the State Department of Institutions and Agencies; one representative of the State Department of Health and one representative of the State Department of Education, chosen and appointed by the head of each respective department. A fourth member shall be chosen and appointed by the State Board of Registration and Examination in Dentistry, a fifth member shall be chosen and appointed by the New Jersey State Dental Society, a sixth member shall be chosen and appointed by the New Jersey Hospital Association, and the seventh member by the New Jersey State Health Officers' Association. Each member shall be appointed for a term of one year and until his successor is appointed and qualified. Any vacancy occurring in the membership for

any cause shall be filled in the same manner as the original appointment but for the unexpired term only.

The members of the council shall serve without compensation, but may be reimbursed for necessary expenses incurred in the performance of their duties by the agency appointing said member.

#### **45:6-15.5. Powers and duties of council on dental clinics**

The council on dental clinics shall enact and from time to time may amend rules in relation to its meetings and the transaction of its business. The council shall elect one of its members chairman who shall hold office for one year.

The council shall consider matters relating to the establishment, maintenance, conduct and operation of dental clinics and may advise the board thereon. It shall submit to the board any recommendations it may deem necessary for the proper conduct and operation of dental clinics. It shall study and investigate the establishment, maintenance, conduct and operation of dental clinics, and shall recommend ways and means to promulgate these standards for the establishment, maintenance, conduct and operation of such dental clinics. The council shall also consider all matters concerning the approval, issuance, suspension or revocation of permits for dental clinics and shall submit its recommendations thereon to the board. The council shall consider such other matters as may be pertinent to the conduct of dental clinics in this State and may report thereon to the board.

#### **45:6-15.6. Issuance of permits; prerequisites**

No permit shall be issued by the board unless the dental clinic complies with the rules, regulations, standards and requirements adopted by the board and in force at the time such application is made.

#### **45:6-15.7. Licensed persons to perform dental operations**

In every dental clinic operated, conducted or maintained in this State all dental operations shall be performed by a licensed dentist or licensed hygienist in accordance with the provisions of Title 45, chapter six of the Revised Statutes.

#### **45:6-15.8. Inspection of dental clinics**

Every member of the council and every member and employee of the board is empowered and authorized to enter and inspect any place where a dental clinic is established, operated, conducted or maintained. Every such

member and employee shall, when inspecting any such place or dental clinic, carry and exhibit when properly requested, a card stating his name and connection with the council or board, verified by the signature of the president and secretary-treasurer of the board and by its seal.

45:6-15.9 to

45:6-15.11. Repealed by L.1979, c. 432, § 1, eff. Feb. 14, 1980

45:6-15.12. Separate violations

Each day that any dental clinic shall be operated, conducted or maintained in violation of any provision of this act or of any rule or regulation of the board made pursuant thereto shall be deemed to be a separate violation for which a penalty may be recovered.

45:6-15.13,

45:6-15.14. Repealed by L.1979, c.432, §§ 1, 6, eff. Feb. 14, 1980

45:6-15.15. Repealed by L.1951, c.199, §15, eff. June 8, 1951

45:6-16. “College”, “school” and “university” defined; authority to teach science of dentistry

The words “college,” “school” or “university,” when used in connection with a place where the science of dentistry in any of its branches may be practiced, demonstrated or taught, mean any educational institution authorized by the Legislature of this State to teach the science of medicine or dentistry and approved by the State Board of Education and by the State Board of Registration and Examination in Dentistry.

Any educational institution, including a college, school, university, institute or department of a university, incorporated or organized and operating under Title 15 of the Revised Statutes or under any other law of this State, which has been or shall be approved by the State Board of Education and by the State Board of Registration and Examination in Dentistry to teach the science of dentistry in any of its branches, shall be deemed to be authorized by the Legislature of this State to teach the science of dentistry in any of its branches and to have complied with the requirements of this section in respect to authorization by the Legislature of this State.

Any such educational institution so authorized to teach the science of dentistry in any of its branches may use the words “college” or “school” in connection with its place where the science of dentistry in any of its branches may be taught, practiced or demonstrated.

#### 45:6-16.1. Limited teaching certificates; issuance; authorized activities

The New Jersey State Board of Dentistry (hereinafter referred to as the board) may issue to qualified applicants limited teaching certificates authorizing the licensee to teach, demonstrate, and practice dentistry in all its branches, but only in and upon the premises designated in the license in which the science of dentistry in any of its branches is taught.

#### 45:6-16.2. Application forms; rules for determining qualifications of applicant

The board shall prescribe the forms for any such application, and by rule shall determine the qualifications of the applicant to teach the science of dentistry as predicated upon the applicant's general and technical knowledge, similar to the qualifications required in this State for a license to practice dentistry without limitation. In all cases the applicant shall submit proof satisfactory to the board of his graduation from a dental school approved by the board.

No such limited license shall be deemed to authorize the licensee to engage in the private practice of dentistry either within or without the said premises.

#### 45:6-16.3. License fees; renewal

Every applicant for any such limited license shall pay to the board for the use of the State, the sum of \$10.00, and the limited license may be annually renewed on the payment of a fee in the sum of \$5.00.

#### 45:6-16.4. Teaching without license prohibited

No person shall teach the science of dentistry in any of its branches in this State unless he shall hold a regularly issued license to practice dentistry in this State or a limited license under this act, and any violation of this provision shall be deemed to be an illegal practice of dentistry punishable as provided in the chapter to which this act is a supplement.

#### 45:6-16.5. Roster of teachers; submission by educational institutions

Every educational institution where the science of dentistry is practiced, demonstrated, or taught in any of its branches shall submit to the board from time to time a roster of all persons engaged in teaching any of the clinical subjects or who act as demonstrators or teachers in the labora-

tories or clinics where the practice of dentistry of any kind is performed on patients. The board shall prescribe a form for such roster and make rules governing their submission.

#### **45:6-16.6. Guest lecturers or clinicians**

Nothing contained in this act shall be deemed to preclude a giving of lectures or the making of demonstrations in connection with the teaching of the science of dentistry by guest lecturers and guest clinicians who are licensed to practice dentistry outside of this State, and who are invited to so demonstrate or teach a specific technique or procedure.

#### **45:6-17. “Institute” defined**

The word “institute” when used in connection with any place where the science of dentistry in any of its branches may be practiced, demonstrated or taught, means any institution authorized by the legislature to engage in medical or dental research.

#### **45:6-18. Illegal use of terms; penalty**

No person, corporation, firm, company, association or partnership shall use the word “clinic”, “infirmary”, “hospital”, “school”, “college”, “university” or “institute”, in English or any other language in connection with any place where dentistry in any of its branches may be practiced, demonstrated or taught, except as defined in sections 45:6-15 to 45:6-17 of this title and upon conviction thereof, shall pay a penalty of five hundred dollars to be sued for and recovered by and in the name of the state board of registration and examination in dentistry under the provisions of this chapter.

#### **45:6-18.1. Charge for completion of dental claim form in connection with health insurance; fine; collection and enforcement**

No dentists and no professional service corporation engaged in the practice of dentistry in this State shall charge a patient an extra fee for services rendered in completing a dental claim form in connection with a health insurance policy. Any person violating this act shall be subject to a fine of \$100.00 for each offense.

Such penalty shall be collected and enforced by summary proceedings pursuant to the Penalty Enforcement Law (N.J.S. 2A:58-1 et seq.). The Superior Court and municipal court shall have jurisdiction within its territory of such proceedings. Process shall be either in the nature of a sum-

mons or warrant and shall issue in the name of the State, upon the complaint of the New Jersey State Board of Dentistry, as plaintiff.

#### 45:6-18.2. Radiographs; use

Radiographs may be used in the course of dental services only for diagnostic or treatment purposes.

#### 45:6-18.3. Violations

Violations of this act shall be prosecuted in the manner provided in P.L.1978, c. 73, s. 12 (C. 45:1-25).

#### 45:6-19. "Practicing dentistry" defined

Any person shall be regarded as practicing dentistry within the meaning of this chapter who

- (1) Uses a dental degree, or the terms "mechanical dentist" or the use of the word "dentist" in English or any foreign language, or designation, or card, device, directory, poster, sign, or other media whereby he represents himself as being able to diagnose, treat, prescribe or operate for any disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums, cheek, or jaws, or oral cavity and associated tissues; or
- (2) Is a manager, proprietor, operator, or conductor of a place where dental operations are performed; or
- (3) Performs dental operations of any kind gratuitously, or for a fee, gift, compensation or reward, paid or to be paid, either to himself or to another person or agency; or
- (4) Uses himself or by any employee, uses a Roentgen or X-ray machine for dental treatment, dental radiographs, or for dental diagnostic purposes; or
- (5) Extracts a human tooth or teeth, or corrects or attempts to correct malpositions of the human teeth or jaws; or
- (6) Offers and undertakes, by any means or method, to diagnose, treat or remove stains or concretions from human teeth or jaws; or
- (7) Uses or administers local or general anesthetics in the treatment of dental or oral diseases or in any preparation incident to a dental operation of any kind or character; or

- (8) Takes impressions of the human tooth, teeth, jaws, or performs any phase of any operation incident to the replacement of a part of a tooth, teeth, or associated tissues; or
- (9) Performs any clinical operation included in the curricula of recognized dental schools or colleges.

The terms manager, proprietor, operator or conductor as used in this chapter shall be deemed to include any person who

- (1) Employs operators or assistants; or
- (2) Places in the possession of any operator, assistant, or other agent such dental material or equipment as may be necessary for the management of a dental office on the basis of a lease or any other agreement for compensation for the use of such material, equipment or office; or
- (3) Retains the ownership or control of dental material, equipment or office and makes the same available in any manner for the use by operators, assistants or other agents; provided, however, that the above shall not apply to bona fide sales of dental material or equipment secured by chattel mortgage.

The following practices, acts and operations shall not be regarded as practicing dentistry within the meaning of this chapter:

- (1) The treatment of the diseases of the mouth and practice of oral surgery, in the practice of his profession, by a physician or surgeon, licensed as such under the laws of this State, unless he undertakes to reproduce or reproduces lost parts of the human teeth in the mouth or to restore or replace lost or missing teeth in the mouth; or
- (2) The practice of dentistry in the discharge of their duties by dentists in the United States Army, Navy, Public Health Service or Veterans Bureau; or
- (3) The operation of a dental school or college as now conducted and approved, or as may be approved, by the Board of Dental Examiners; and the practice of dentistry by students in any such dental school or college approved by the board, when acting under the direction and supervision of any registered and licensed dentist acting as instructor; or
- (4) The practice of dentistry by licensed dentists of other States or countries at meetings of the American Dental Association

or component parts thereof, or any other like dental organizations, while appearing as clinicians; or

- (5) The practice of dentistry by accredited internes operating in hospitals under the supervision of registered and licensed dentists; or
- (6) The use of Roentgen or other rays for making radiograms or similar records of dental or oral tissues under the supervision of a licensed dentist or physician; provided, however, that such services shall not be advertised, by any name whatsoever, as an aid or inducement to secure dental patronage; and provided, further, that no corporation shall advertise that it has, leases, owns or operates a Roentgen or X-ray machine for the purpose of making dental radiograms of the human teeth or tissues of the oral cavity, or administering treatment thereto for any disease thereof; or
- (7) The making of artificial restorations, substitutes, or appliances for the correction of disease, loss, deformity, malposition, dislocation, fracture, or injury to the jaws, teeth, lips, gums, cheeks, palate, or cases, models, or from impressions furnished by a licensed and registered dentist, on written prescription only; provided, that such prosthetic or orthodontic appliances, or the services rendered in the construction, repair, or alteration thereof, shall not be advertised, sold or delivered, directly or indirectly, to the public by the dental technician or dental laboratory as principal or agent.

#### 45:6-19.1. Definitions

For purposes of this act:

- a. "Prosthesis" means an artificial substitute for a missing body part, such as a tooth, used for functional or cosmetic reasons or both.
- b. "Rebasing" means the act of replacing the base material of a denture without changing the occlusal relations of the teeth.

#### 45:6-19.2. Upper and lower dentures and removable dental prostheses; markings

Every complete upper and lower denture and removable dental prosthesis fabricated by a dentist licensed by this State shall be marked with the name and social security number of the patient for whom the prosthesis is intended unless the patient objects thereto. The markings shall be done

during fabrication and shall be permanent, legible and cosmetically acceptable. The exact location of the markings and the methods used to apply or implant them shall be determined by the dentist or dental laboratory fabricating the prosthesis on behalf of the dentist. If in the professional judgment of the dentist or dental laboratory this identification is not practicable, identification shall be provided as follows:

- a. The social security number of the patient may be omitted if the name of the patient is shown;
- b. The initials of the patient may be shown alone, if the use of the name of the patient is impracticable;
- c. The identification marks may be omitted in their entirety if none of the forms of identification specified in subsections a. and b. of this section are practicable or clinically safe.

#### **45:6-19.3.      Removable dental prosthesis; marking at time of rebasing**

Any removable dental prosthesis in existence prior to the effective date of this act, which was not marked at the time of its fabrication, in accordance with section 2 of this act,<sup>1</sup> shall be so marked at the time of any subsequent rebasing.

<sup>1</sup>Section 45:6-19.2.

#### **45:6-19.4.      Rules and regulations**

The board shall adopt rules and regulations and provide standards to carry out the provisions of this act.

#### **45:6-19.5.      Hospital privileges**

A licensed dentist whose credentials have been approved and who has been granted privileges by the medical staff of a public or private licensed hospital or other public or private institution in this State and who has been approved by the governing board of the hospital or institution may:

- a. Diagnose and treat patients admitted for acute or chronic illness, injury or deformity within the province of the human jaw and associated structures and complete and authenticate medical records of patients admitted or treated for dental or oral and maxillofacial surgical problems; and
- b. Prescribe medication and treatment for patients admitted for dental or oral and maxillofacial surgical problems.

A dentist, other than a qualified oral and maxillofacial surgeon, who performs one or more of the procedures set forth in this section shall arrange for appropriate medical consultation to be provided by a qualified physician member of the medical staff of the hospital or institution for a patient of the dentist.

#### **45:6-19.6. Additional hospital privileges of oral and maxillofacial surgeon**

In addition to the procedures authorized pursuant to section 1 of this act,<sup>1</sup> an oral and maxillofacial surgeon may perform a history and physical examination on a patient admitted to a hospital for a dental or oral and maxillofacial surgical procedure, if the surgeon has successfully completed a postgraduate program in oral surgery accredited by a nationally recognized accrediting body approved by the United States Department of Education.

Whenever a qualified oral and maxillofacial surgeon admits a patient with a medical problem, he shall seek the consultative services of a qualified physician member of the medical staff.

Each patient's general medical condition is the responsibility of a qualified physician member of the medical staff.

<sup>1</sup>Section 45:6-19.5

#### **45:6-20. Practice of dentistry as interne in public or private hospitals and institutions**

Any person may practice dentistry as an interne or resident in a public or private licensed hospital or other public or private institution of this State for a period of one year; providing, such person shall furnish proof to the board he can fulfill the requirements demanded in the other sections of this chapter relating to applicants for license to practice dentistry; but no such person shall be permitted to so engage in the practice of dentistry unless and until he obtains a certificate in writing from the board, which certificate shall be at all times publicly exhibited in the public or private licensed hospital or other public or private institution to which such person is attached as an interne or resident. The board may, in its discretion, renew such certificate from year to year but not to exceed any aggregate of three years. The board shall charge and collect a fee of ten dollars (\$10.00) for each such certificate or renewal thereof granted. Any public or private licensed hospital or other public or private institution of this State, in order

to avail itself of the provisions of this section and sections 45:6-21 and 45:6-22 of this Title, shall first obtain a certificate in writing from the board.

**45:6-21. Dental internes not to receive fees or compensation; exception; nature of services; inspection of institution**

No dental interne or resident certified under section 45:6-20 of this Title to any public or private licensed hospital or other public or private institution shall receive, collect or be entitled to, either directly or indirectly, any fees or compensation for any services rendered, while acting as such interne or resident; but nothing herein contained shall be construed to prevent or prohibit the public or private licensed hospital or other public or private institution to which any interne or resident is attached from providing compensation out of its funds for services so rendered by such interne or resident. The services rendered by any such interne or resident shall be strictly confined to the inmates and registered patients of the public or private licensed hospital or other public or private institution to which he is attached, and shall be performed under the supervision of a regularly licensed dentist of this State, who shall be a member of the staff of such hospital or institution. Every public or private licensed hospital or other public or private institution to which any such interne or resident is attached shall be subject to inspection by the board, or by its duly accredited inspectors or representatives.

**45:6-22. Repealed by L.1999, c. 403, § 12, eff. Jan. 18, 2000**

**45:6-23. Illegal practices; misdemeanor**

Any person, company or association shall be guilty of a misdemeanor, and upon every conviction thereof shall be punished by a fine of not less than five hundred dollars, or by imprisonment for not less than six months, or both, who:

- a. Sells or barter, or offers to sell or barter, any diploma or document conferring or purporting to confer any dental degree or any certificate or transcript made or purporting to be made pursuant to the laws regulating the licensing and registration of dentists; or
- b. Purchases or procures by barter any such diploma, certificate or transcript with intent that the same shall be used as evidence of the holder's qualification to practice dentistry, or in fraud of the laws regulating such practice; or

- c. With fraudulent intent, alters in a material regard any such diploma, certificate or transcript; or
- d. Uses or attempts to use any such diploma, certificate or transcript which has been purchased, fraudulently issued, counterfeited or materially altered, either as a license or color of license to practice dentistry, or in order to procure registration as a dentist.

**45:6-24. False statements; high misdemeanor**

Any person who, in any affidavit or examination required of an applicant for examination, license or registration under the laws regulating the practice of dentistry, willfully makes a false statement in a material regard, shall be guilty of a high misdemeanor, punishable upon conviction thereof by a fine not exceeding five hundred dollars, or by imprisonment at hard labor not exceeding five years, or both, in the discretion of the court.

**45:6-25. Repealed by L.1979, c. 432, § 1, eff. Feb. 14, 1980**

**45:6-26. Commitment for failure to pay judgment**

The court shall, if judgment be rendered for the plaintiff, cause any defendant who refuses or fails to pay forthwith the amount of the judgment rendered against him and all the costs and charges incident thereto, to be committed to the county jail for a period of not less than thirty days nor more than ninety days, except in cases where the penalty is five hundred dollars (\$500.00), in which cases commitment shall be made for a period of not less than sixty days nor more than one hundred fifty days.

**45:6-27 to**

**45:6-29. Repealed by L.1953, c. 43, §§ 22 to 24, eff. March 19, 1953**

**45:6-29.1. Repealed by L.1979, c. 432, § 1, eff. Feb. 14, 1980**

**45:6-29.2 to**

**45:6-32. Repealed by L.1979, c. 432, § 6, eff. Feb. 14, 1980**

**45:6-33 to**

**45:6-45. Repealed by L.1979, c. 46, § 26, eff. March 21, 1979; L.1979, c. 432, § 1, eff. Feb. 14, 1980**

**45:6-46 Repealed by L.1953, c. 43, § 26, eff. March 19, 1953; L.1979, c. 46, § 26, eff. March 21, 1979**

45:6-47. Repealed by L.1979, c. 46, § 26, eff. March 21, 1979

45:6-48. Short title

This act shall be known and may be cited as “The Dental Auxiliaries Act.”

45:6-49. Definitions

For the purposes of this act:

- a. “Board” means the New Jersey State Board of Dentistry.
- b. “Registered dental assistant” means any person who has fulfilled the requirements for registration established by this act and who has been registered by the board. A registered dental assistant shall work under the direct supervision of a licensed dentist.
- c. “Dental assistant” means any person who is trained by formal education or office internship to perform, under the direct supervision of a dentist, any routine office procedure, not including an intra-oral procedure, in the office of a dentist.
- d. “Dental hygienist” means any person who performs in the office of any licensed dentist or in any appropriately equipped school, licensed clinic, or public or private institution under the supervision of a licensed dentist, those educational, preventive and therapeutic services and procedures which licensed dental hygienists are trained to perform, and which are specifically permitted by regulation of the board, and such intra-oral clinical services which are primarily concerned with preventive dental procedures, including, but not limited to, during the course of a complete prophylaxis, removing all hard and soft deposits and stains from the surfaces of the human teeth to the depth of the gingival sulcus, polishing natural and restored surfaces of teeth, applying indicated topical agents, surveying intra- and extra-oral structures, noting deformities, defects and abnormalities thereof, performing a complete oral prophylaxis and providing clinical instruction to promote the maintenance of dental health.
- e. “Direct supervision” means acts performed in the office of a licensed dentist wherein he is physically present at all times during the performance of such acts and such acts are performed pursuant to his order, control and full professional responsibility.

- f. “Supervision” means acts performed pursuant to a dentist’s written order, control and full professional responsibility, whether or not he is physically present.
- g. “Limited registered dental assistant” means any person who has fulfilled the requirements for registration established by this amendatory and supplementary act and who has been registered by the board. A limited registered dental assistant shall be limited to working under the direct supervision of a dentist who conducts a limited dental practice in the dental specialty for which the assistant has been trained and registered, and in performing those intra-oral procedures as defined by the board which are involved in that specialty.

#### 45:6-50. Additional powers and duties of board

The board shall have the following additional powers and duties, under this act:

- a. To examine, admit, and deny persons applying for admission to the practice of dental hygiene;
- b. To issue licenses to practice dental hygiene;
- c. To certify academic and clinical institutions and hospitals which educate and train persons for the practice of dental hygiene or dental assisting in accordance with standards substantially similar to those of the American Dental Association’s Commission on Accreditation of Dental and Dental Auxiliary Educational Programs and Council on Hospital Dental Service and taking into consideration the advice of the New Jersey Department of Higher Education and the New Jersey Department of Education;
- d. To issue certificates of good standing to dental hygienists who hold a valid subsisting license to practice in this State;
- e. To establish by rule or regulation, standards for the training and utilization of registered dental assistants and limited registered dental assistants;
- f. To establish and recognize councils and committees which may advise and make recommendations to the board on various aspects of the education and practice for dental hygienists, registered dental assistants, limited registered dental assistants or dental assistants;

- g. To prescribe expanded functions to be performed solely by dental hygienists and to be performed by dental hygienists, registered dental assistants and limited registered dental assistants under a single standard of proficiency necessary and proper to protect and promote the public health and welfare of the citizens of this State, and impose such restrictions and requirements, including the setting of educational prerequisites to the performance of such functions and the administration of examinations, as are necessary to insure adherence to the adopted standard of proficiency. Expansion and assignment of such functions, training and examination procedures shall be developed in consultation with the relevant advisory councils;
- h. To adopt rules and regulations to achieve the objectives contemplated by this act, pursuant to the Administrative Procedure Act, P.L.1968, c. 410 (C. 52:14B-1 et seq.);
- i. To do any and all other things which may be appropriate to achieve the objectives contemplated by this act, or which may be useful in executing any of the duties, powers or functions of the board.

#### 45:6-50.1. Dental assistant internship program; training required

The board shall establish by rule or regulation the required training which shall be included in dental assistant internship programs. An internship program for an individual seeking registration as a dental assistant shall include training in the intra-oral procedures that are performed in the office of a dentist licensed for general practice. The board shall establish a committee consisting of two board members and three licensed dentists which shall develop and monitor a satisfactory internship program for individuals seeking registration as a dental assistant.

#### 45:6-50.2. Limited dental assistant internship program; training required

Upon the request of a recognized professional dental specialty society, the board shall establish by rule or regulation the required training which shall be included in a limited dental assistant internship program. An internship program for an individual seeking registration as a limited dental assistant shall include training in those intra-oral procedures that are performed in the office of a dentist who has received from the board a permit of limited dental practice in the specialty area for which the assistant seeks registration. The board shall establish a committee consisting of two board members and three licensed dentists which shall develop and monitor a

satisfactory internship program for individuals seeking registration as a limited dental assistant.

**45:6-51. Meetings**

The board shall hold at least two meetings annually at which they will examine and license persons to practice dental hygiene.

**45:6-52. Dental hygiene; examination of candidates for licenses to practice**

- a. The board shall adopt rules for the examination of candidates for licenses to practice dental hygiene. Every applicant shall present to the secretary of the board a written application for admission to the examination on a form provided by the board. No person shall be examined by the board unless he has satisfactorily completed such course on dental hygiene as may be required by the board. Any rule altering the nature or increasing the severity of the examination or subjects to be included therein shall not be enforced until 6 months after its public promulgation and adoption. The examination of applicants shall be confined to written or oral, or both written and oral, examination upon subjects properly relating to the science of dental hygiene, the knowledge of which is necessary to the proper and skillful practice of said science. The board shall also require from applicants, as part of the examination, demonstration of their clinical skill in dental hygiene.
- b. The fee for the examination for license to practice dental hygiene shall be determined by the board from time to time and shall accompany every application. Such fee shall not be refunded, unless for sickness or other good cause appearing to the satisfaction of the board such applicant was prevented from attending and completing such examination. Upon the approval of the application for examination, such applicant shall thereupon be entitled to admission to such examination. If said applicant fails to pass the examination, he may be re-examined at the next regular examination.

**45:6-53. Registration and issuance of licenses**

All persons who pass the required examination shall be registered by the board as licensed dental hygienists, and shall be issued licenses to practice dental hygiene under the seal and hand of the president and secretary of the board.

**45:6-54. Waiver of examination**

The board may waive the requirements for examination of a candidate for a license to practice dental hygiene when the board reasonably determines that it is in the public interest.

**45:6-55. Dental assistants; registration; requirements; performance of intra-oral procedures**

- a. The board shall adopt rules and procedure for the registration of dental assistants and limited dental assistants. Every applicant for registration shall satisfactorily complete an examination approved by the board and a nationally recognized accrediting agency, which examination shall require the applicant to demonstrate that the applicant is capable of performing the functions of a registered dental assistant or limited registered dental assistant, as the case may be, and shall be administered within the State at least once each year at such time and place as the board designates, and
  - (1) Have satisfactorily completed and graduated from a training program for dental assistants accredited by the American Dental Association's Commission on Accreditation of Dental and Dental Auxiliary Educational Programs and approved by the board, or
  - (2) Have a high school diploma or its equivalent and at least two years work experience as a dental assistant.
- b. For three years from the date the first internship program is implemented pursuant to the provisions of sections 10 or 11 of P.L.1995, c. 367 (C. 45:6-50.1 or 45:6-50.2), a dental assistant or limited dental assistant may satisfy the work experience requirement of paragraph (2) of subsection a. of this section by completing at least six months' work experience as a dental assistant and have successfully completed a board approved internship in the office and under the direct supervision of a licensed New Jersey dentist. The internship for a registered dental assistant shall consist of three months' training in the office of a dental practitioner under a licensed dentist's direct supervision and the internship for a limited registered dental assistant shall consist of three months' training in the office of a dentist under a licensed dentist's direct supervision who has received a permit of limited dental practice in a specialty area from the board.

- c. The board by rule or regulation shall specify those intra-oral procedures which may be performed by registered dental assistants and limited registered dental assistants, provided that such procedures shall not include those procedures which are traditionally performed by dental hygienists.

#### 45:6-56. Continuing education requirement

- a. Four years from March 21, 1979 and every four years thereafter, each person licensed to practice dental hygiene or registered as a registered dental assistant or limited registered dental assistant in this State shall provide the board with a certified statement, upon a form issued and distributed by the board, that such licensed or registered person has attended, or participated in not less than 20 hours of continuing education in dental hygiene or dental assisting as follows: Lectures or study club sessions dealing with clinical subjects, college post-graduate courses, scientific sessions of conventions, research on clinical subjects, service as a clinician or any other such evidence of continuing education which the board may approve.
- b. The board shall notify each licensed or registered person of any failure to comply with this requirement, and shall further notify said person that upon continued failure to comply for a period of 3 months from the date of notice, the board may, at its discretion take action pursuant to section 11 of this act.<sup>1</sup>
- c. The board, in its discretion, may waive any of the requirements of this section in cases of certified illness or undue hardship to be determined on an individual basis.

<sup>1</sup>N.J.S.A. § 45:6-58.

#### 45:6-57. Dental hygienists; certificate of registration; renewal; display; failure to renew; penalty

Every person licensed to practice dental hygiene shall biennially apply, on a form furnished by the board, for a certificate of registration, which shall be issued by the secretary of the board upon payment of a fee of \$10.00. The certificate of registration shall be displayed in the office or place in which the holder thereof practices dental hygiene. Where a dental hygienist practices dental hygiene at more than one office or place, a duplicate registration certificate shall be issued upon the payment of an additional fee of \$5.00 for each such certificate. The license of any person who fails to procure any biennial certificate of registration, at the time and in the

manner required by the board, except a person on the inactive status list, may be suspended by the board in the manner provided by section 12 of P.L.1979, c. 46 (C. 45:6-59). Any license so suspended shall be reinstated at any time within three years from the date of such suspension upon the payment of all past due biennial registration fees and an additional reinstatement fee of \$25.00. Any person whose license shall have been suspended for such cause shall, during the period of such suspension, be regarded as an unlicensed person and, in case such person shall continue or engage in the practice of dental hygiene during such period, shall be liable to the penalties prescribed by section 11 of P.L.1979, c. 46 (C. 45:6-58) for practicing dental hygiene without a license. Said fees shall be used by the board in the same manner as similar fees received by it under the provisions of chapter 6 of Title 45 of the Revised Statutes.

#### **45:6-57.1. Inactive license status**

A licensed dental hygienist may apply to the board for inactive license status on a form furnished by the board. Upon receipt of the completed inactive status application form the board shall place the licensee on an inactive status list. While on the list, the person shall pay an inactive license renewal fee in an amount prescribed by the board and shall not practice dental hygiene within the State.

A person on the inactive status list who wants to resume the practice of dental hygiene shall apply to the board for a current biennial certificate of registration and shall pay the prescribed registration fee. Any person who has been on the inactive status list for five or more years shall furnish the board with satisfactory evidence of current knowledge and skill in the practice of dental hygiene as required by regulation of the board.

#### **45:6-58. Violations; penalties**

Any person practicing dental hygiene in this State without first having obtained a license as provided by this act, or without the current biennial certificate of registration, or contrary to any of the provisions of this act, or any person who fails to comply with the provisions of section 9 of P.L.1979, c. 46 (C. 45:6-56), except a person on the inactive status list, or who practices dental hygiene or works as a registered dental assistant or limited registered dental assistant under a false or assumed name, or buys, sells or fraudulently obtains a diploma or certificate showing or purporting to show graduation or completion of a course in dental hygiene or dental assisting, or who violates any of the provisions of this act, shall be liable to a penalty of \$300.00 for the first offense and of \$500.00 for the second and each subsequent offense.

45:6-59. Repealed by L.1999, c. 403, § 12, eff. Jan. 18, 2000

45:6-60. Disorderly person offenses

Any person, company or association who commits any of the following acts is a disorderly person, and upon every conviction thereof shall be subject to a fine of not less than \$300.00 nor more than \$500.00 or by imprisonment for not less than 30 days nor more than 90 days, or by both such fine and imprisonment:

- a. Selling or bartering, or offering to sell or barter, any diploma or document showing or purporting to show graduation as a dental hygienist or dental assistant;
- b. Purchasing or procuring by barter any such diploma, certificate or transcript with intent that it be used as evidence of the qualifications of the holder to practice dental hygiene or work as a registered dental assistant or limited registered dental assistant, or in fraud of the laws regulating such practice or work;
- c. With fraudulent intent, altering in a material regard, such diploma, certificate or transcript;
- d. Using or attempting to use such diploma, certificate or transcript which has been purchased, fraudulently issued, and counterfeited or materially altered, either as a license or registration or color of license or registration to practice dental hygiene or work as a registered dental assistant or limited registered dental assistant, or in order to procure registration as a dental hygienist; or
- e. In any affidavit or examination required of an applicant for examination, license or registration under the laws regulating the practice of dental hygiene or dental assisting, willfully making a false statement in a material regard, or impersonating another applicant at an examination.

45:6-61. Violations by dentists; penalty

Any licensed dentist who shall permit any unlicensed or unregistered person to practice dental hygiene or work as a registered dental assistant or limited registered dental assistant under his direction or control or shall permit or direct a licensed dental hygienist, registered dental assistant or limited registered dental assistant to perform any act not authorized in this act shall be guilty of a violation of this act and of conduct constituting

willful and gross malpractice or willful and gross neglect in the practice of dentistry.

**45:6-62. Practice of dental hygiene in institution**

Any person who has graduated from an approved school or college of dental hygiene and has been licensed to practice dental hygiene in this State may, subject to the supervision of a New Jersey licensed dentist, practice dental hygiene in an institution in this State.

**45:6-63. Expired**

**45:6-64. Establishment of independent office of dental hygienist; prohibition**

Nothing in this act shall be construed as permitting a licensed dental hygienist to establish an independent office for the purpose of performing traditional hygienist services whether or not there is supervision or direct supervision of a licensed dentist.

**45:6-65. Continuance of proceedings dependent on law prior to effective date of law**

All proceedings pending and undisposed of, and any new proceedings based upon any event or transaction occurring before the effective date of this act, shall be continued, or may be initiated and processed to completion and shall be governed, to the extent that it is fair and feasible to do so, in accordance with the law in force at the time of the occurrence of the event or transaction involved, notwithstanding the repeal by this act of any statute now in force.

**45:6-66. Rules and regulations; continuation**

All rules and regulations heretofore adopted by the board shall continue to be effective on an interim basis as though hereafter adopted as rules and regulations of the board to the extent they are not inconsistent with the provisions of this act.

**45:6-67. Rules and regulations on practice of dental hygienists and registered dental assistants; expiration of § 45:6-63**

Section 16 of this act <sup>1</sup> shall remain in force and effect for a period not to exceed 2 years after the effective date of this act. Within 1 year after the effective date of this act, the board shall propose rules and regulations gov-

erning the practice of dental hygiene, establish a program for registration of registered dental assistants, and establish the tasks which a duly licensed dentist may assign to a registered dental assistant. Such rules and regulations shall take effect 2 years after the enactment of this act.

<sup>1</sup>Section 45:6-63.

#### **45:6-68. Severability**

If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence or part thereof directly involved in the controversy in which such judgment shall have been rendered.

#### **45:6-69. Compliance with law on x-ray technicians**

Nothing herein shall be construed to exempt registered dental assistants, limited registered dental assistants, dental assistants or other dental office personnel from compliance with P.L.1981, c. 295 (C. 26:2D-24 et seq.).

### **OTHER RELEVANT STATUTES**

#### **14A:17-1. Legislative intent**

It is the legislative intent to provide for the incorporation of an individual or group of individuals to render the same professional service to the public for which such individuals are required by law to be licensed or to obtain other legal authorization.

#### **14A:17-3. Terms defined**

As used in this act, the following words shall have the meanings indicated:

- (1) “Professional service” shall mean any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and which prior to the passage of this act and by reason of law could not be performed by a corporation. By way of example and without limiting the generality thereof, the personal services which come within the provisions of this act are the personal services rendered by certified public accountants, architects, optometrists, profes-

sional engineers, land surveyors, land planners, chiropractors, physical therapists, registered professional nurses, dentists, osteopaths, physicians and surgeons, doctors of medicine, doctors of dentistry, podiatrists, chiropodists, veterinarians and, subject to the Rules of the Supreme Court, attorneys-at-law;

- (2) “Professional corporation” means a corporation which is organized under this act for the sole and specific purpose of rendering the same or closely allied professional service as its shareholders, each of whom must be licensed or otherwise legally authorized within this State to render such professional service;
- (3) “Closely allied professional service” means and is limited to the practice of (a) architecture, professional engineering, land surveying and land planning and (b) any branch of medicine and surgery, optometry, physical therapy, registered professional nursing, and dentistry;
- (4) “Domestic professional legal corporation” means a professional corporation incorporated under P.L.1969, c. 232 for the sole purpose of rendering legal services of the type provided by attorneys-at-law;
- (5) “Foreign professional legal corporation” means a corporation incorporated under the laws of another state for the purpose of rendering legal services of the type provided by attorneys-at-law.

#### 14A:17-14. Corporate name

- a. The corporate name of a professional corporation shall contain the full or last names of one or more of the shareholders or a name descriptive of the type of professional service in which the corporation will be engaged and shall also contain the words “chartered,” “professional association” or “a professional corporation,” or the abbreviation “P.A.” or “P.C.” The use of the word “company,” “corporation” or “incorporated,” or any other word, words, abbreviations, affix or prefix indicating that it is a corporation, in the corporate name of a professional corporation, other than the words “chartered,” “professional association” or “a professional corporation,” or the abbreviation “P.A.” or “P.C.,” is specifically prohibited. It shall be permissible, however, for the corporation and the

shareholders to render professional services or to exercise its authorized powers under a name which is identical to its corporate name except that the words “chartered,” “professional association” or “a professional corporation,” or the abbreviation “P.A.” or “P.C.” is omitted.

- b. Notwithstanding the provisions of subsection a. of this section, the corporate name of a professional corporation may contain the name of a deceased person only if, at the time of the person’s death:
  - (1) that person’s name was part of the corporate name; or
  - (2) that person’s name was part of the name of an existing partnership and at least two-thirds of that partnership’s partners become shareholders of the professional corporation.

**44:6-1. Maintenance by municipalities of clinics for indigent children**

The board or body having control of the finances of a municipality may appropriate annually such sum as it may deem advisable to be used and applied only for the maintenance and equipment of a dental clinic or clinics in the municipality for the free treatment of indigent persons of school age.

**44:6-2. Maintenance by boards of education of clinics for indigent children**

The board of education of a municipality or county may maintain and conduct therein dental clinics for the treatment and relief of indigent children. The operator in the clinic must be registered to practice dentistry in this state. For the maintenance and equipment of the clinics there may be appropriated annually in a municipality or county, in the manner in which money for other school purposes is appropriated, such sum not exceeding five thousand dollars as may be deemed advisable.

**44:6-3. Appropriations by first-class cities to dental associations conducting clinics for indigent children**

Whenever a dental association regularly incorporated under the laws of this state shall maintain and conduct in a city of the first class a dental clinic or clinics where indigent children may receive treatment and relief without charge or fee, the board or body having control of the finances of the city may appropriate and pay to that association each year such sum or sums, not exceeding twenty thousand dollars in all, as it shall deem advis-

able, to be used and applied by that association only for the support, maintenance and equipment in the city of a dental clinic or clinics for the free treatment of indigent children not over the age of sixteen years who are residents of the city.

The officers of the dental association shall annually at the beginning of each fiscal year furnish to the board or body having control of the finances of the city a report of the number and kind of cases treated by the clinic together with a detailed statement of all expenditures made from any money appropriated by the city for the clinic.

#### **44:6-4. Appropriations by certain cities to dental associations conducting clinics for indigent persons**

Whenever a dental association regularly incorporated under the laws of this state shall maintain and conduct in a city, other than a city of the first class, a dental clinic or clinics where indigent persons resident in the city may receive treatment and relief without charge or fee, the board or body having control of the finances of the city may appropriate and pay to that association, each year, such sum or sums, not exceeding five thousand dollars in all, as it shall deem advisable, to be used and applied by that association only for the support, maintenance and equipment in the city of a dental clinic or clinics for the free treatment of indigent persons resident in the city.

The officers of the clinic shall annually at the beginning of each fiscal year furnish to the board or body having control of the finances of the city a report of the number and kind of cases treated by the clinic together with a detailed statement of all expenditures made from any money appropriated by the city for the clinic.

#### **44:6-5. Appropriations for dental clinics**

The board of chosen freeholders of any county wherein there is in use a permanently located dental clinic, or a trailer or mobile dental clinic may raise, appropriate and use annually such sum of money as it may deem advisable in the furtherance of or for the maintenance and equipment of such dental clinic or clinics in the county for the treatment of indigent persons of school age.

# New Jersey Statutes Annotated

## Title 45, Chapter 1.

### Uniform Enforcement Act

#### ARTICLE 1. GENERAL PROVISIONS RELATING TO ALL PROFESSIONS AND OCCUPATIONS AFFECTED BY THIS SUBTITLE

##### 45:1-1. Persons entitled to practice, etc. under former laws unaffected

Any person now entitled to practice any profession or to engage in any occupation, governed or regulated by the provisions of this title by virtue of any prior law, shall continue to be entitled to practice or engage in the same, notwithstanding the enactment of this title, and the validity of any license or other authorization to practice any such profession or to engage in any such occupation, heretofore issued to any person under any prior law, or of any proceeding pending to obtain such a license or authorization shall not be affected by the enactment of this title but all such persons shall in all other respects be subject to the provisions of this title.

##### 45:1-2. Repealed by L.1971, c.60, § 5, eff. March 25, 1971

#### ARTICLE 2. GENERAL PROVISIONS RELATING TO CERTAIN STATE BOARDS OF REGISTRATION AND EXAMINATION

##### 45:1-2.1. Professional boards and commissions; application of act

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State

Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, and the State Board of Public Movers and Warehousemen.<sup>1</sup>

<sup>1</sup> Abolition of State Board of Public Movers and Warehousemen and transfer of functions, powers and duties to the Division of Consumer Affairs. See Reorganization Plan No. 008-1998, set out under § 45:14D-4.

**45:1-2.2.            Appointment of members by governor; public members; member from department in executive branch; quorum; vote necessary for action**

- a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law; except in appointing members other than those appointed pursuant to subsection b. or subsection c., the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.
- b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members, two additional members to represent the interests of the public, to be known as public members, to each of the following boards and commissions: The New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Social Work Examiners, and the State Board of Veterinary Medical Examiners, and one additional public member to each of the following boards: the Board of Examiners of Electrical Contractors, the State Board of Marriage and Family Therapy Examiners, the State Board of Examiners of Master Plumbers, and the State Real Estate Appraiser Board. Each public member shall be appointed for the term prescribed for the other members of the board or commission

and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause.

No public member appointed pursuant to this section shall have any association or relationship with the profession or a member thereof regulated by the board of which he is a member, where such association or relationship would prevent such public member from representing the interest of the public. Such a relationship includes a relationship with members of one's immediate family; and such association includes membership in the profession regulated by the board. To receive services rendered in a customary client relationship will not preclude a prospective public member from appointment. This paragraph shall not apply to individuals who are public members of boards on the effective date of this act.

It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section.

Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process; provided, however, that public members shall be given notice of and may be present at all such examination processes and deliberations concerning the results thereof, and, provided further, that public members may participate in the development and establishment of the procedures and criteria for such examination processes.

- c. The Governor shall designate a department in the Executive Branch of the State Government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 of P.L.1971, c.60 (C. 45:1-2.1) and shall appoint the head of such department, or the holder of a designated office or position in such department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.
- d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission.

#### 45:1-2.3. Qualifications; rights and duties

Such additional members:

- a. Need not meet the educational and professional requirements for membership on such boards or commissions as provided in the several statutes establishing such boards and commissions; and
- b. Shall be voting members subject to the same rights, obligations and duties as other members of their respective boards or commissions.

#### 45:1-2.4. Effect of act on term of member in office

Nothing in this act shall affect the right of a board or commission member in office on the effective date of this act to continue to serve for the term for which he was appointed.

#### 45:1-2.5. Compensation and reimbursement of expenses of members; executive secretaries; compensation and terms of employment; offices and meeting places

With respect to the boards or commissions designated in section 1 of P.L.1971, c.60 (C.45:1-2.1), except as otherwise provided in subsection d. of this section, and notwithstanding the provisions of any other law:

- a. The officers and members shall be compensated on a per diem basis in the amount of \$25.00 or an amount to be determined by the Attorney General, with the approval of the State Treasurer, but not to exceed \$100.00 per diem or \$2,500.00 annually, and shall be reimbursed for actual expenses reasonably incurred in the performance of their official duties. Such moneys shall be paid according to rules and regulations promulgated by the Attorney General.
- b. The executive secretary shall receive such salary as shall be determined by the appointing authority within the limits of available appropriations and shall serve at its pleasure. Any such executive secretary who holds a certificate, license or registration issued by the board or commission by which he is employed shall not during such employment be permitted to engage in any profession or occupation regulated by the board or commission.
- c. The head of the department to which such board or commission is assigned shall maintain within any public building, whether owned or leased by the State, suitable quarters for the board's or commission's office and meeting place, provided that no such of-

place or meeting place shall be within premises owned or occupied by an officer or member of such board or commission.

- d. The compensation schedule for members of boards and commissions provided in subsection a. of this section shall not apply to the members of the New Jersey Real Estate Commission, who shall be compensated pursuant to R.S.45:15-6 or to members of the State Board of Medical Examiners who shall receive compensation of \$150 per diem.

#### 45:1-2.6. Inapplicability of act to rights under civil service or any pension law or retirement system

Nothing in this act shall deprive any person of any tenure rights or of any right or protection provided him by Title 11 of the Revised Statutes, Civil Service,<sup>1</sup> or any pension law or retirement system.

<sup>1</sup>Now title 11A.

#### 45:1-3. Expenses of boards paid from income; surplus paid to state treasurer; accounts

Each member of the boards mentioned in section 45:1-2<sup>1</sup> of this title shall be entitled to his actual traveling and other expenses incurred in the performance of his duties, which sum shall be paid from the license fees and other sources of income of such boards. Such boards shall also be entitled to expend from their income such sums as shall be necessary to defray all proper expenses incurred by them in the performance of their duties, including the compensation of any of their officers or agents whom they are authorized to compensate. Such boards, if authorized to collect an annual registration or license fee from persons licensed by them, may retain in their treasuries the fees so collected and use the same for the purpose of defraying the expenses of securing evidence against and prosecuting persons violating the provisions of the laws with the enforcement of which they are charged, or, in case the revenue of the boards from other sources shall be insufficient to pay the salary of their secretaries and their other expenses, such fees may be expended for such purposes. Such boards shall be entitled to retain, in addition to the above, at least one hundred dollars in their treasuries for the purpose of preparing and holding their examinations. On or before October thirty-first in each year such boards shall pay to the state treasurer all moneys remaining in their treasuries, except as above stated, which sum, when so paid, shall form a part of the state fund. Such boards shall keep accurate accounts of their receipts and

expenditures, which accounts shall be subject to audit by the state comptroller.

<sup>1</sup>Repealed; see, now, §§ 45:1-2.1, 45:1-2.2.

#### **45:1-3.1. Application of act**

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, and the State Board of Social Work Examiners.

#### **45:1-3.2. Charges for examinations, licensures and other services; establishment or change by rule; standards**

Notwithstanding the provisions of Title 45 of the Revised Statutes or any other law to the contrary, any board or commission named in section 1 of this supplementary act <sup>1</sup> may by rule establish, prescribe or change the charges for examinations, licensures and other services it performs, which rule shall first be approved by the head of the department to which such board or commission is assigned and shall be adopted in accordance with the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C. 52:14B-1).

Any board’s or commission’s charges established, prescribed or changed pursuant to this section shall be established, prescribed or changed to such extent as shall be necessary to defray all proper expenses incurred by the board or commission in the performance of its duties but such charges shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

<sup>1</sup>Section 45:1-3.1.

### 45:1-3.3. Administrative fees charged by boards; modification

The Director of the Division of Consumer Affairs may by rule establish, prescribe, or modify administrative fees charged by boards in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.). For purposes of this section, “administrative fees” are charges assessed to licensees, registrants or holders of certificates, as the case may be, for board functions that are not unique to a particular board but are uniform throughout all boards. Administrative fees include, but are not limited to, fees for a duplicate or replacement license, certification or registration, late renewal fee, license reinstatement fee, and the fee for processing change of address.

### 45:1-4. Salary of secretary

The secretary of each of the boards mentioned in section 45:1-2<sup>1</sup> of this title, whether or not a member thereof, shall be entitled to receive such reasonable salary or compensation for his services as secretary as shall be fixed by such boards, which shall be paid by the boards from their receipts, unless an appropriation is made for the expenses of such boards, in which case the same shall be paid from such appropriation.

<sup>1</sup>Repealed. See, now, §§ 45:1-2.1, 45:1-2.2.

### 45:1-5,

45:1-6. Repealed by L.1979, c.432, § 4, eff. Feb. 14, 1980

### 45:1-7. Professional or occupational licenses or certificates of registration; duration; expiration; exceptions; fees

Notwithstanding any of the provisions of Title 45 of the Revised Statutes or of any other law to the contrary, all professional or occupational licenses or certificates of registration, except such licenses or certificates issued to real estate brokers or salesmen pursuant to chapter 15 of Title 45, which prior to the effective date of this act were issued for periods not exceeding one year and were annually renewable, shall, on and after the effective date of this act, be issued for periods of two years and be biennially renewable, except that licenses and business permits issued to electrical contractors pursuant to chapter 5A of Title 45 shall be issued for periods of three years and be triennially renewable; provided, however, the boards or commissions in charge of the issuance or renewal of such licenses or certificates may, in order to stagger the expiration dates thereof, provide that those first issued or renewed after the effective date of this act, shall expire and become void on a date fixed by the respective boards or

commissions, not sooner than six months nor later than 29 months, after the date of issue.

The fees for the respective licenses and certificates of registration issued pursuant to this act for periods of less or greater than one year shall be in amounts proportionately less or greater than the fees established by law.

#### 45:1-7.1.        Application to holders of professional or occupational licenses

- a. Notwithstanding any other act or regulation to the contrary, the provisions of this section and sections 6 and 7 of P.L.1999, c.403 (C.45:1-7.2 et al.) shall apply to every holder of a professional or occupational license or certificate of registration or certification issued or renewed by a board specified in section 2 of P.L. 1978, c. 73 (C.45:1-15), who seeks renewal of that license or certificate.
- b. Every holder of a professional or occupational license or certificate of registration or certification, issued or renewed by a board specified in section 2 of P.L.1978, c.73 (C.45:1-15), who seeks renewal shall submit a renewal application and pay a renewal fee prior to the date of expiration of the license or certificate of registration or certification. If the holder does not renew the license or certificate prior to its expiration date, the holder may renew it within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. Any professional or occupational license or certificate of registration or certification not renewed within 30 days of its expiration date shall be suspended without a hearing.
- c. Any individual who continues to practice with an expired license or certificate of registration or certification after 30 days following its expiration date shall be deemed to be engaged in unlicensed practice of the regulated profession or occupation, even if no notice of suspension has been provided to the individual.
- d. A professional or occupational license or certificate of registration or certification suspended pursuant to this section may be reinstated within five years following its date of expiration upon submission of a renewal application and payment of an additional reinstatement fee. An applicant seeking reinstatement of a license or certificate suspended pursuant to this section more than five years past its expiration date shall successfully complete the examination required for initial licensure, registration or certification and

submit a renewal application and payment of an additional reinstatement fee.

- e. A board specified in section 2 of P.L. 1978, c.73 (C. 45:1-15) shall send a notice of renewal to each of its holders of a professional or occupational license or certificate of registration or certification, as applicable, at least 60 days prior to the expiration of the license or certificate. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.

#### 45:1-7.2. Reinstatement

A board may reinstate the professional or occupational license or certificate of registration or certification of an applicant whose license or certificate has been suspended pursuant to section 5 of P.L.1999, c.403 (C.45:1-7.1), provided that the applicant otherwise qualifies for licensure, registration or certification and submits the following upon application for reinstatement:

- a. Payment of all past delinquent renewal fees;
- b. Payment of a reinstatement fee;
- c. An affidavit of employment listing each job held during the period of suspended license, registration or certification which includes the names, addresses, and telephone numbers of each employer; and
- d. If applicable, satisfactory proof that the applicant has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license or certificate of registration or certification.

#### 45:1-7.3. Renewal applications

- a. Renewal applications for all professional or occupational licenses or certificates of registration or certification shall provide the applicant with the option of either active or inactive renewal. A renewal applicant electing to renew as inactive shall not engage in professional or occupational practice within the State.
- b. An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period unless, upon application to the board, the board permits the inactive applicant to return to active status provided such applicant presents satisfactory

proof that he has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license, registration or certification, if applicable.

**45:1-8. Contractors; application of § 45:1-9**

The provisions of this act apply to the following classes of contractors:

- a. Tree experts, certified pursuant to P.L.1940, c.100 (C. 13:1-28 et seq.<sup>1</sup>);
- b. Home repair contractors, licensed pursuant to P.L.1960, c.41 (C. 17:16C-62 et seq.);
- c. Electrical contractors, licensed pursuant to P.L.1962, c.162 (C. 45:5A-1 et seq.);
- d. Master plumbers, licensed pursuant to P.L.1968, c. 362 (C. 45:14C-1 et seq.);
- e. Well drillers, licensed pursuant to P.L.1947, c.377 (C. 58:4A-5 et seq.); and
- f. Any class of contractors who hereafter are licensed by the State.

<sup>1</sup>Renumbered C. 45:15C-1 to 45:15C-10.

**45:1-9. Indication of license or certificate number on contracts, bids and advertisements**

Any contractor licensed by the State shall indicate his license or certificate number on all contracts, subcontracts, bids and all forms of advertising as a contractor.

**45:1-10. Disclosure of laboratory payments on bills to patients and third party payors**

It shall be unlawful for any person licensed in the State of New Jersey to practice medicine or surgery, dentistry, osteopathy, podiatry or chiropractic to agree with any clinical, bio-analytical or hospital laboratory, wheresoever located, to make payments to such laboratory for individual tests, combination of tests, or test series for patients unless such person discloses on the bills to patients and third party payors the name and address of such laboratory and the net amount or amounts paid or to be paid to such laboratory for individual tests, combination of tests or test series.

45:1-10.1. Claims for third party payment; licensed health care professional; responsibility for filing

Effective 12 months after the adoption of regulations establishing standard health care enrollment and claim forms by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23), a health care professional licensed pursuant to Title 45 of the Revised Statutes is responsible for filing all claims for third party payment, including claims filed on behalf of the licensed professional's patient for any health care service provided by the licensed professional that is eligible for third party payment, except that at the patient's option, the patient may file the claim for third party payment.

- a. In the case of a claim filed on behalf of the professional's patient, the professional shall file the claim within 60 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23).
- b. In the case of a claim in which the patient has assigned his benefits to the professional, the professional shall file the claim within 180 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23). If the professional does not file the claim within 180 days of the last date of service for a course of treatment, the third party payer shall reserve the right to deny payment of the claim, in accordance with regulations established by the Commissioner of Banking and Insurance, and the professional shall be prohibited from seeking any payment directly from the patient.
  - (1) In establishing the standards for denial of payment, the Commissioner of Banking and Insurance shall consider the good faith use of information provided by the patient to the professional with respect to the identity of the patient's third party payer, delays in filing a claim related to coordination of benefits between third party payers and any other factors the commissioner deems appropriate, and, accordingly, shall define specific instances where the sanctions permitted pursuant to this subsection shall not apply.
  - (2) A professional who fails to file a claim within 180 days and whose claim for payment has been denied by the third party payer in accordance with this subsection may, in the discre-

tion of a judge of the Superior Court, be permitted to refile the claim if the third party payer has not been substantially prejudiced thereby. Application to the court for permission to refile a claim shall be made within 14 days of notification of denial of payment and shall be made upon motion based upon affidavits showing sufficient reasons for the failure to file the claim with the third party payer within 180 days.

- c. The provisions of this section shall not apply to any claims filed pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.).
- d. A health care professional who violates the provisions of subsection a. of this section may be subject to a civil penalty of \$250 for each violation plus \$50 for each day after the 60th day that the provider fails to submit a claim. The penalty shall be sued for and collected by the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to “the penalty enforcement law,” N.J.S.2A:58-1 et seq.

#### 45:1-11. Violations; penalty

Any person violating this act shall be guilty of a misdemeanor.

#### 45:1-12. Podiatrist, optometrist or psychologist or professional service corporation; charge for completion of claim form for health insurance; fine; collection and enforcement

No podiatrist, optometrist or psychologist and no professional service corporation engaging in the practice of podiatry, optometry or psychology in this State shall charge a patient an extra fee for services rendered in completing a medical claim form in connection with a health insurance policy. Any person violating this act shall be subject to a fine of \$100.00 for each offense.

Such penalty shall be collected and enforced by summary proceedings pursuant to the Penalty Enforcement Law (N.J.S. 2A:58-1 et seq.). The Superior Court and municipal court shall have jurisdiction within its territory of such proceedings. Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the State Board of Medical Examiners with respect to podiatrists, the New Jersey State Board of Optometry for optometrists or the State Board of Psychological Examiners for psychologists.

45:1-13. Repealed by L.1999, c.403, § 12, eff. Jan. 18, 2000

45:1-14. Legislative findings and declarations; liberal construction of act

The Legislature finds and declares that effective implementation of consumer protection laws and the administration of laws pertaining to the professional and occupational boards located within the Division of Consumer Affairs require uniform investigative and enforcement powers and procedures and uniform standards for license revocation, suspension and other disciplinary proceedings by such boards. This act is deemed remedial, and the provisions hereof should be afforded a liberal construction.

45:1-15. Boards and professions or occupations regulated by or through such boards; application of act

The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Physical Therapy, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Alcohol and Drug Counselor Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Massage, Bodywork and Somatic Therapy Examining Committee, and the Audiology and Speech-Language Pathology Advisory Committee.

#### 45:1-15.1. Rules and regulations

Consistent with their enabling acts, P.L.1978, c.73 (C.45:1-14 et seq.) and the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), the boards and others set forth in section 2 of P.L.1978, c.73 (C.45:1-15) are authorized to adopt rules and regulations to serve the public health, safety and welfare.

#### 45:1-16. Definitions

As used within this act the following words or terms shall have the indicated definition unless the context clearly indicates otherwise.

“Board” means any professional or occupational licensing board designated in section 2 of this act.<sup>1</sup>

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Person” means any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trust thereof.

<sup>1</sup>Section 45:1-15.

#### 45:1-17. Powers of Attorney General to implement act and administer law enforcement activities of boards

In implementing the provisions of this act and administering the law enforcement activities of those professional and occupational boards located within the Division of Consumer Affairs, the Attorney General may:

- a. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate rules and regulations consistent with the provisions of this act and the Administrative Procedure Act, P.L.1968, c.410 (C. 52:14B-1 et seq.) governing the procedure for administrative hearings before all boards within the Division of Consumer Affairs. Such rules and regulations shall govern administrative complaints, answers thereto, issuance of subpoenas, appointment of hearing examiners, adjournments, submission of proposed findings of fact and conclusions of law, the filing of briefs, and such other procedural aspects of administrative hearings be-

fore the boards as the Attorney General may deem necessary; provided, however, nothing herein authorized shall be construed to require the Attorney General to promulgate rules regarding prehearing investigative procedures.

- b. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate substantive rules and regulations consistent with the provisions of any statute governing the activities of any licensing agency, board or committee located within the Division of Consumer Affairs, which shall be limited to disciplinary matters and arbitrary restrictions on initial licensure. In addition to promulgating such rules and regulations, the Attorney General may direct that any proposed or existing regulation be amended, abandoned or repealed. Prior to the final adoption of any regulation affecting the activities of any professional or occupational licensing agency, board or committee located within the division and prior to the issuance of any directive to amend, abandon or repeal any regulation, the Attorney General or his designee shall first consult with the agency, board or committee whose activities are affected regarding the proposed action.
- c. After a full consideration of all relevant facts and the applicable law, may direct the initiation of any appropriate enforcement action by a professional or occupational licensing board or set aside, modify or amend, as may be necessary, any action or decision of a licensing agency, board or committee located within the Division of Consumer Affairs; provided, however, no such action shall be directed by the Attorney General in reviewing the action or decision of an agency, board or committee unless such action or decision is contrary to applicable law.

#### 45:1-18.        Investigative powers of boards, director or attorney general

Whenever it shall appear to any board, the director or the Attorney General that a person has engaged in, or is engaging in any act or practice declared unlawful by a statute or regulation administered by such board, or when the board, the director or the Attorney General shall deem it to be in the public interest to inquire whether any such violation may exist, the board or the director through the Attorney General, or the Attorney Gen-

eral acting independently, may exercise any of the following investigative powers:

- a. Require any person to file on such form as may be prescribed, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning the rendition of any service or conduct of any sale incidental to the discharge of any act or practice subject to an act or regulation administered by the board;
- b. Examine under oath any person in connection with any act or practice subject to an act or regulation administered by the board;
- c. Inspect any premises from which a licensed profession or occupation is conducted;
- d. Examine any goods, ware or item used in the rendition of any professional or occupational service;
- e. Examine any record, book, document, account or paper maintained by or for any professional or occupational licensee in the regular course of practicing such profession or engaging in such occupation;
- f. For the purpose of preserving evidence of an unlawful act or practice, pursuant to an order of the Superior Court, impound any record, book, document, account, paper, goods, ware, or item used or maintained by or for any board licensee in the regular course of practicing such profession or engaging in such occupation. In such cases as may be necessary, the Superior Court may, on application of the Attorney General, issue an order sealing items or material subject to this subsection.

In order to accomplish the objectives of this act or any act or regulation administered by a board, the Attorney General may hold such investigative hearings as may be necessary and may issue subpoenas to compel the attendance of any person or the production of books, records or papers at any such hearing or inquiry.

**45:1-19. Failure or refusal to file statement or report, refusal of access to premises or failure to obey subpoena; penalty**

If any person shall fail or refuse to file any statement or report or refuse access to premises from which a licensed profession or occupation is conducted in any lawfully conducted investigative matter or fail to obey a subpoena issued pursuant to this act, the Attorney General may apply to the Superior Court and obtain an order:

- a. Adjudging such person in contempt of court; or
- b. Granting such other relief as may be required; or
- c. Suspending the license of any such person unless and until compliance with the subpoena or investigative demand is effected.

**45:1-20. Compelling testimony or production of book, paper or document; immunity from prosecution**

If any person shall refuse to testify or produce any book, paper, or other document in any proceeding under this act for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper, or document by the Attorney General, he shall comply with such direction.

A person who is entitled by law to, and does assert such privilege, and who complies with such direction of the Attorney General shall not thereafter be prosecuted or subjected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury or false swearing committed by him in giving such testimony or from any civil or administrative action arising from such testimony.

**45:1-21. Grounds for refusal to admit to examination or denial, suspension or revocation of any certificate, registration or license; definitions**

A board may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license.

- a. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;
- b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
- c. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;

- d. Has engaged in repeated acts of negligence, malpractice or incompetence;
- e. Has engaged in professional or occupational misconduct as may be determined by the board;
- f. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. For the purpose of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
- g. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;
- h. Has violated or failed to comply with the provisions of any act or regulation administered by the board;
- i. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
- j. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with, such applications, required to be filed with the Department of Environmental Protection;
- k. Has violated any provision of P.L.1983, c.320 (C.17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;
- l. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days;
- m. Has prescribed or dispensed controlled dangerous substances indiscriminately or without good cause, or where the applicant or holder knew or should have known that the substances were to be used for unauthorized consumption or distribution;

- n. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the board, or aided and abetted an unlicensed person or entity in performing such an act;
- o. Advertised fraudulently in any manner.

For purposes of this act:

“Completed application” means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L.1991, c. 421 (C.13:1D-101), for the class or category of permit for which application is made.

“Permit” has the same meaning as defined in section 1 of P.L.1991, c. 421 (C.13:1D-101).

#### 45:1-21.1. Annual summary of compliance information and attendance at continuing education seminars; costs; information deemed public records

- a. A board obtaining information from the Department of Environmental Protection pursuant to section 1 of P.L.1991, c.418 (C. 13:1D-110) on the compliance of a member of a regulated profession with the requirements for completed applications of the department, shall annually develop a detailed written summary of the information gathered by the department pursuant to P.L.1991, c.418 (C. 13:1D-110) regarding compliance with the department’s requirements for completed applications and attendance records for continuing education seminars required to be filed with the department pursuant to section 2 of P.L.1991, c.419 (C. 13:1D-117).
- b. Any reasonable costs incurred in preparation of the report required pursuant to this section may be included in the charges authorized pursuant to P.L.1974, c.46 (C. 45:1-3.2).
- c. Information required to be compiled by a board pursuant to this section, shall be deemed to be public records subject to the requirements of P.L.1963, c.73 (C. 47:1A-1 et seq.).

#### 45:1-21.2. Suspension of certain licenses; hearing

The director or a board shall suspend, as appropriate, after a hearing, the license, registration or certification of any person who has been certified by a lender or guarantor and reported to the director or the board, as the case may be, for nonpayment or default of a State or federal direct or

guaranteed educational loan. The license, registration or certification shall not be reissued until the person provides the director or board with a written release issued by the lender or guarantor stating that the person has cured the default or is making payments on the loan in accordance with a repayment agreement approved by the lender or guarantor. If the person has continued to meet all other requirements for licensure, registration or certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director or the board may impose.

**45:1-22. Additional or alternative penalties to revocation, suspension or refusal to renew; temporary order suspending or limiting license; subpoena**

In addition or as an alternative, as the case may be, to revoking, suspending or refusing to renew any license, registration or certificate issued by it, a board may, after affording an opportunity to be heard:

- a. Issue a letter of warning, reprimand, or censure with regard to any act, conduct or practice which in the judgment of the board upon consideration of all relevant facts and circumstances does not warrant the initiation of formal action;
- b. Assess civil penalties in accordance with this act;
- c. Order that any person violating any provision of an act or regulation administered by such board to cease and desist from future violations thereof or to take such affirmative corrective action as may be necessary with regard to any act or practice found unlawful by the board;
- d. Order any person found to have violated any provision of an act or regulation administered by such board to restore to any person aggrieved by an unlawful act or practice, any moneys or property, real or personal, acquired by means of such act or practice; provided, however, no board shall order restoration in a dollar amount greater than those moneys received by a licensee or his agent or any other person violating the act or regulation administered by the board;
- e. Order any person, as a condition for continued, reinstated or renewed licensure, to secure medical or such other professional treatment as may be necessary to properly discharge licensee functions.

A board may, upon a duly verified application of the Attorney General that either provides proof of a conviction of a court of competent jurisdic-

tion for a crime or offense involving moral turpitude or relating adversely to the regulated profession or occupation, or alleges an act or practice violating any provision of an act or regulation administered by such board, enter a temporary order suspending or limiting any license issued by the board pending plenary hearing on an administrative complaint; provided, however, no such temporary order shall be entered unless the application made to the board palpably demonstrates a clear and imminent danger to the public health, safety and welfare and notice of such application is given to the licensee affected by such order.

In any administrative proceeding commenced on a complaint alleging a violation of an act or regulation administered by a board, such board may issue subpoenas to compel the attendance of witnesses or the production of books, records, or documents at the hearing on the complaint.

**45:1-23. Summary proceeding in Superior Court; injunction; orders necessary to prevent unlawful practice or remedy past unlawful activity**

Whenever it shall appear to a board, the director or the Attorney General that a violation of any act, including the unlicensed practice of the regulated profession or occupation, or regulation administered by such board has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting such act or practice. In any such proceeding the court may assess a civil penalty in accordance with the provisions of this act, order restoration to any person in interest of any moneys or property, real or personal, acquired by means of an unlawful act or practice and may enter such orders as may be necessary to prevent the performance of an unlawful practice in the future and to fully remedy any past unlawful activity. In any action brought pursuant to this section, the court shall not suspend or revoke any license issued by a board.

**45:1-24. Failure to comply with order of board directing payment of penalties or restoration of moneys or property; enforcement**

Upon the failure of any person to comply within 10 days after service of any order of a board directing payment of penalties or restoration of moneys or property, the Attorney General or the secretary of such board may issue a certificate to the Clerk of the Superior Court that such person is indebted to the State for the payment of such penalty and the moneys or

property ordered restored. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed, and amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court, and the Attorney General shall have all rights and remedies of a judgment creditor in addition to exercising any other available remedies. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the board's order.

An action to enforce the provisions of any order entered by a board or to collect any penalty levied thereby may be brought in any municipal court or the Superior Court in summary manner pursuant to the Penalty Enforcement Act, (N.J.S. 2A:58-1 et seq.) and the rules of court governing the collection of civil penalties. Process in such action shall be by summons or warrant, and in the event that the defendant fails to answer such action, the court shall issue a warrant for the defendant's arrest for the purpose of bringing such person before the court to satisfy any order entered.

#### 45:1-25. Violations; civil penalty; action to collect or enforce

Any person who engages in any conduct in violation of any provision of an act or regulation administered by a board shall, in addition to any other sanctions provided herein, be liable to a civil penalty of not more than \$10,000 for the first violation and not more than \$20,000 for the second and each subsequent violation. For the purpose of construing this section, each act in violation of any provision of an act or regulation administered by a board shall constitute a separate violation and shall be deemed a second or subsequent violation under the following circumstances:

- (1) an administrative or court order has been entered in a prior, separate and independent proceeding;
- (2) the person is found within a single proceeding to have committed more than one violation of any provision of an act or regulation administered by a board; or
- (3) the person is found within a single proceeding to have committed separate violations of any provision of more than one act or regulation administered by a board.

- b. In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action in the name of any board for the collection or enforcement of civil penalties for the violation of any provision of an act or regulation administered by such board. Such action may be brought in summary manner pursuant to “the penalty enforcement law” (N.J.S.A. 2A:58-1 et seq.) and the rules of court governing actions for the collection of civil penalties in the municipal court where the offense occurred. Process in such action may be by summons or warrant and in the event that the defendant in such action fails to answer such action, the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant’s arrest in order to bring such person before the court to satisfy the civil penalties imposed. In any action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice.
- c. Any action alleging the unlicensed practice of a profession or occupation shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court. In any action brought pursuant to this act, a board or the court may order the payment of costs for the use of the State, including, but not limited to, costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs.

#### **45:1-26. Repeal of inconsistent acts and parts of acts**

All acts and parts of acts inconsistent with this act are hereby superseded and repealed.

#### **45:1-27. Severability**

If any provision of this law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the law which can be given effect without the invalid provision or application, and to this end the provisions of this law are severable.

# New Jersey Administrative Code

## Title 13, Chapter 30.

### New Jersey State Board of Dentistry

#### SUBCHAPTER 1. LICENSURE TO PRACTICE DENTISTRY

##### 13:30-1.1 Purpose and scope

- (a) The rules in this chapter implement the provisions of N.J.S.A. 45:6-1 et seq., the Dental Practice Act, and regulate the practice of dentistry in the State of New Jersey.
- (b) The provisions of this chapter shall apply to all licensed dentists, licensed registered dental hygienists, registered dental assistants, limited registered dental assistants, and holders of dental clinic permits, and all applicants seeking licensure to engage in the practice of dentistry, dental hygiene, and dental assisting, and applicants seeking permits to operate dental clinics.
- (c) Noncompliance with the rules in this chapter may be deemed professional misconduct and may subject the licensee, registrant or permit holder to disciplinary action pursuant to the provisions of N.J.S.A. 45:1-14 et seq.

##### 13:30-1.2 Application for licensure to practice dentistry

- (a) All persons desiring to practice dentistry in New Jersey shall secure a license from the Board.
- (b) To qualify as a candidate for dental licensure, an applicant shall submit a completed application to the Board which shall contain the following information and materials:
  - 1. A certification by the secretary or dean of a dental school, college or department of a university approved by the Commission on Dental Accreditation verifying that the applicant has obtained a dental degree from such institution;
  - 2. A passport size photograph of the applicant certified by the secretary or dean of the dental school, college or department of the university from which the applicant has obtained a dental degree;
  - 3. Results from the successful completion of the Northeast Regional Board Examination. If an applicant fails any portion

of the Northeast Regional Board Examination three consecutive times, the Board may require the applicant to sit for and pass a remedial course in the subject area at a dental school, college or department of a university approved by the Commission on Dental Accreditation. The Board shall recognize successful completion of the Northeast Regional Board examination for up to five years. After five years, the Board shall review each request on a case-by-case basis consistent with the following:

- i. The Board may recognize successful completion of the Northeast Regional Board Examination after five years. As part of its review, the Board shall consider and evaluate any prior record of disciplinary action or pending disciplinary action against the candidate or investigation of the candidate in any other state and the applicant's complete professional employment history.
  4. Results from the successful completion of the New Jersey Jurisprudence examination taken within one year of the date of application;
  5. Results of the successful completion of parts I and II of the National Board Dental Examination;
  6. A certification by the board of dentistry in every state or jurisdiction in which the applicant holds a dental license verifying that the applicant's license in that state or jurisdiction is in good standing;
  7. An affidavit of good moral character; and
  8. The application fee as set forth in N.J.A.C. 13:30-8.1.
- (c) Notwithstanding the provisions of (b) above, an applicant for licensure to practice dentistry who graduated from a dental school more than two years prior to the date of application, shall submit a certification verifying the completion of 40 hours of continuing education within two years prior to application, consistent with the requirements of N.J.A.C. 13:30-5.1.
- (d) An applicant for dental licensure who graduated from a dental school that has not been approved by the Commission on Dental Accreditation shall have completed at least two years of study at a dental school, college or department of a university approved by

the Commission of Dental Accreditation, with a dental degree having been conferred by such institution.

### 13:30-1.3 Resident permit

- (a) Prior to obtaining licensure, a graduate of a dental school approved by the Commission on Dental Accreditation who has passed Part I and Part II of the National Board Dental Examination may serve as a resident in a hospital approved by the Commission on Dental Accreditation upon obtaining a resident permit from the Board. A resident permit shall be renewed annually for the length of the residency program.
- (b) An applicant for a resident permit shall submit to the Board a completed application which shall contain the following:
  - 1. A certification by the secretary or dean of a dental school, college or department of a university approved by the Commission on Dental Accreditation verifying that the applicant has obtained a dental degree from such institution;
  - 2. A certification by the board of dentistry in any state or jurisdiction in which the applicant holds a dental license verifying that the applicant's license in that state or jurisdiction is in good standing;
  - 3. An affidavit of good moral character; and
  - 4. The application fee as set forth in N.J.A.C. 13:30-8.1.

### 13:30-1.4 Exemption from licensure

- (a) The following individuals shall not be required to obtain a license to practice dentistry pursuant to N.J.S.A. 45:6-19:
  - 1. Physicians or surgeons, licensed in New Jersey, who treat diseases of the mouth, unless such individuals undertake to reproduce lost or missing teeth or to restore or replace lost or missing teeth in the mouth;
  - 2. Dentists discharging their duties in the United States Army, Navy, Air Force, Public Health Service or Veterans Bureau;
  - 3. Licensed dentists of other states or jurisdictions appearing as clinicians at meetings of the American Dental Association or its constituents and components or other dental organizations or associations approved by the Board;

4. Licensed dentists of other states or jurisdictions appearing as instructors of continuing education courses approved by the Board pursuant to N.J.A.C. 13:30-5.1; and
5. Licensed dentists of other states or jurisdictions engaged as expert witnesses in disciplinary matters or court actions in New Jersey.

#### 13:30-1.5 Retired or inactive licensure

- (a) A licensee who has practiced dentistry for at least 25 years may, upon application to the Board, be licensed as a retired dentist. A retired licensee shall not engage in the practice of dentistry for the entire biennial period in which he or she has been granted retired status. A retired licensee may resume the practice of dentistry upon submission of evidence to the Board of having completed the continuing education requirements of N.J.A.C. 13:30-5.1(a) 1.
- (b) A licensee may, upon application to the Board and payment of the fee set forth in N.J.A.C. 13:30-8.1, renew his or her license by choosing inactive status. A licensee electing to renew his or her license as inactive shall not engage in the practice of dentistry for the entire biennial period. An inactive licensee may resume the practice of dentistry upon submission of evidence to the Board of having completed the continuing education requirements as set forth in N.J.A.C. 13:30-5.1(a)1.

#### 13:30-1.6 through

#### 13:30-1.16 (Reserved)

### SUBCHAPTER 1A. DENTAL HYGIENISTS

#### 13:30-1A.1 Application for licensure as registered dental hygienist

- (a) All persons desiring to practice dental hygiene in New Jersey shall first secure a license from the Board.
- (b) An applicant for licensure as a dental hygienist shall submit a completed application to the Board which shall contain the following information and materials:
  1. A certification by the secretary or dean from an institution with an educational program in dental hygiene approved by the Commission on Dental Accreditation verifying that the

- applicant completed the educational program in dental hygiene;
2. A passport size photograph of the applicant certified by the secretary or dean of the institution from which the applicant has completed the program in dental hygiene;
  3. The results of the successful completion of the National Dental Hygiene Board examination;
  4. The results of the successful completion of the Northeast Regional Board examination, except as provided in (d) and (e) below;
  5. The results of the successful completion of the New Jersey Jurisprudence examination taken within one year of the date of application;
  6. A certification by the board of dentistry in every state or jurisdiction in which the applicant holds a license to practice dental hygiene verifying that the applicant's license in that state or jurisdiction is in good standing;
  7. An affidavit of good moral character; and
  8. The application fee as set forth in N.J.A.C. 13:30-8.1.
- (c) As part of its review of applicants for licensure as registered dental hygienists, the Board shall consider and evaluate any prior record of disciplinary action or pending disciplinary action against the applicant or investigation of the applicant in any other state or jurisdiction and the applicant's complete professional employment history.
- (d) Upon a written request from an applicant, the Board may grant a waiver of Northeast Regional Board performance testing. The candidate requesting such a waiver shall submit, at a minimum, the following:
1. A certification by the board of dentistry in every state or jurisdiction in which the applicant holds a license to practice dental hygiene verifying that the applicant's license in that state or jurisdiction is in good standing;
  2. A certification by the secretary or dean from an institution with an educational program in dental hygiene approved by the Commission on Dental Accreditation verifying that the

applicant completed the educational program in dental hygiene;

3. Test results of any state or regional clinical examination other than the Northeast Regional Board examination; and
4. Ten credits of continuing education in dental hygiene earned within two years prior to the application as set forth in N.J.A.C. 13:30-5.2.

(e) The Board shall recognize successful completion of the Northeast Regional Board Examination for up to five years. After five years, the Board shall review each request for recognition of the Northeast Regional Board examination on a case by case basis and may recognize successful completion of the examination provided the candidate submits, at a minimum, the following:

1. A certification by the board of dentistry in every state or jurisdiction in which the applicant holds a license to practice dental hygiene verifying that the applicant's license in that state or jurisdiction is in good standing; and
2. Ten credits of continuing education in dental hygiene earned within two years prior to the application as set forth in N.J.A.C. 13:30-5.2.

(f) Notwithstanding the provisions of (b) above, an applicant for licensure as a dental hygienist who graduates from an educational program in dental hygiene approved by the Commission on Dental Accreditation more than two years prior to the date of application shall submit a certification verifying the completion of 10 credits of continuing education in dental hygiene as set forth in N.J.A.C. 13:30-5.2.

### 13:30-1A.2 Scope of practice of licensed dental hygienist

(a) For purposes of this subchapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

“Direct supervision” means that a licensed dentist is physically present in the office at all times during the performance of any act and that such acts are performed pursuant to the licensed dentist's order, control and full professional responsibility.

“Institution” means any nursing home, veterans home, hospital or prison, or any State or county facility providing inpatient care, supervision and treatment for the mentally disabled.

“Supervision” means that a licensed dentist shall provide a written order and shall maintain control and full professional responsibility for the performance of any act, whether or not the licensed dentist is physically present.

(b) A licensed dentist hygienist practicing under the direct supervision of a licensed dentist may:

1. Perform a complete prophylaxis including the removal of all hard and soft deposits from all surfaces of human natural and restored teeth to the epithelial attachments and the polishing of natural and restored teeth;
2. Perform root planning;
3. Provide prophylactic and preventive measures such as the application of fluorides and pit and fissure sealants and other recognized topical agents for the prevention of oral disease or discomfort;
4. Place intrasulcular therapeutic medications approved by the Food and Drug Administration, as directed by a dentist;
5. Examine soft and hard tissue of the head, neck and oral cavity and note deformities, defects and abnormalities therein;
6. Fabricate athletic mouth guard appliances;
7. Isolate the operative field, including the placement and removal of rubber dams;
8. Place and remove matrices and wedges;
9. Place temporary sedative restorations;
10. Remove excess cement from crowns or other restorations and orthodontic appliances;
11. Remove sutures;
12. Fabricate and cement temporary crowns and bridges after preparation of tooth (teeth) by a dentist. This shall not include intra-oral occlusal adjustment;

13. Take impressions for diagnostic models and models to be used as counters for fixed or removable prostheses;
14. Place amalgam and gold foil in a tooth for condensation by the dentist;
15. Place and remove retraction cords and medicated pellets;
16. Perform bite registration procedures to determine occlusal relationship of diagnostic models only;
17. Place and remove periodontal dressings and other surgical dressings;
18. Trial size (pre-select) orthodontic bands, wires, stainless steel crowns and temporary crowns intra-orally or on diagnostic models;
19. Remove arch wires and ligature wires;
20. Make radiographic exposures as permitted by the Department of Environmental Protection pursuant to N.J.S.A. 26:2D-24 et seq.;
21. Provide oral health education including dietary analysis and clinical instruction in order to promote dental health;
22. Apply topical anesthetic agents;
23. Take and record vital signs;
24. Retract patient's cheek, tongue or other tissue parts during a dental procedure;
25. Remove such debris as is normally created in the course of treatment during or after dental procedures by vacuum devices, compressed air, mouthwashes and water;
26. Hold a curing light for any dental procedure. Such curing light shall not include a laser;
27. Take dental photographs including the use of intra-oral cameras;
28. Select shades of prosthetic appliances; and
29. Assist a licensed dentist in the administration of nitrous oxide, provided the licensed dentist is physically present in the operatory at all times during the procedure.

- (c) A licensed dental hygienist practicing within an institution subject to the supervision of a New Jersey licensed dentist in the institution may:
1. Perform a complete prophylaxis including the removal of all hard and soft deposits from all surfaces of human natural and restored teeth to the epithelial attachments and the polishing of natural and restored teeth;
  2. Perform root planning;
  3. Provide prophylactic and preventive measures such as the application of fluorides and pit and fissure sealants and other recognized topical agents for the prevention of oral disease or discomfort.
  4. Examine soft and hard tissue of the head, neck and oral cavity and note deformities, defects and abnormalities therein;
  5. Make radiographic exposures as permitted by the Department of Environmental Protection pursuant to N.J.S.A. 26:2D-24 et seq.;
  6. Provide oral health education including dietary analysis and clinical instruction in order to promote dental health;
  7. Take and record vital signs; and
  8. Take dental photographs including the use of intra-oral cameras.
- (d) Each licensed dentist may utilize no more than three licensed dental hygienists at one time in a dental office.
- (e) A licensed dental hygienist who engages in the activities outlined in (b) above without direct supervision shall be deemed to be engaging in the unauthorized practice of dental hygiene and shall be subject to the penalties set forth in N.J.S.A. 45:6-58.
- (f) A licensed dentist who permits a licensed dental hygienist to engage in the activities outlined in (b) above without direct supervision shall be subject to the penalties set forth in N.J.S.A. 45:1-25.
- (g) A licensed dental hygienist may provide a written work authorization for emergency repair of a dental prosthesis provided that the prosthesis shall not require any intra-oral procedure and shall be thereafter inserted by a licensed dentist.

### 13:30-1A.3 Inactive licensure

A licensed dental hygienist may, upon application to the Board and payment of the fee set forth in N.J.A.C. 13:30-8.1, renew his or her license by choosing inactive status. A licensee electing to renew his or her license as inactive shall not engage in the practice of dental hygiene for the entire biennial period for which he or she was granted inactive status.

### 13:30-1A.4 Resumption of active practice by inactive dental hygienist

- (a) A dental hygienist who has been inactive for any period of time and wishes to resume the active practice of dental hygiene shall, in addition to making application for a current certificate of registration and paying the appropriate fee as set forth in N.J.A.C. 13:30-8.1, submit a certification verifying the completion of continuing education requirements consistent with the provisions of N.J.A.C. 13:30-5.2.
- (b) An applicant who has been on the inactive status list for five or more years and who wishes to resume the practice of dental hygiene shall:
  - 1. Apply to the Board for a current biennial certificate of registration and pay the prescribed registration fee as set forth in N.J.A.C. 13:30-8.1;
  - 2. If an applicant is licensed and practicing in another state or jurisdiction, furnish the Board with a certification from the board in the state or jurisdiction verifying that the applicant's license to practice dental hygiene in that state or jurisdiction is in good standing; and
  - 3. Pass the Northeast Regional Board examination in dental hygiene or satisfactorily complete a Board approved clinical refresher course on dental hygiene practice which is not less than 35 hours, provided by an institution accredited by the American Dental Association Commission on Dental Accreditation.

## SUBCHAPTER 2. DENTAL ASSISTANTS

### 13:30-2.1 Definitions

For purposes of this subchapter, the following words and terms, shall have the following meanings, unless the context clearly indicates otherwise:

“Direct supervision” means that a licensed dentist is physically present in the office at all times during the performance of any act and that such acts are performed pursuant to the licensed dentist’s order, control and full professional responsibility.

“Institution” means any nursing home, veterans home, hospital or prison, or any State or county facility providing inpatient care, supervision and treatment for the mentally disabled.

“Supervision” means that a licensed dentist shall provide a written order and shall maintain control and full professional responsibility for the performance of any act, whether or not the licensed dentist is physically present.

### 13:30-2.2 Application for registration as dental assistant

(a) An applicant desiring to secure registration as a dental assistant shall have:

1. Successfully completed high school (or its equivalent) and shall have:
  - i. Satisfactorily completed and graduated, within the past 10 years, from an educational program for dental assistants approved by the Board and the Commission on Dental Accreditation and shall have taken the Registered Dental Assisting Certification Examination administered by the Dental Assisting National Board (DANB) within 10 years prior to the date of application;
  - ii. Obtained at least two years work experience as a dental assistant during the five-year period prior to making application for registration, passed the Certification Examination administered by DANB within 10 years prior to the date of application, successfully completed a Board-approved program in expanded functions, and passed the New Jersey Expanded Functions Examination administered by DANB;
  - iii. Obtained at least two years work experience as a dental assistant during the five-year period prior to making application for registration, passed the Certification Examination administered by DANB within 10 years prior to application, and passed the New Jersey Expanded Functions Examination administered by DANB; or

- iv. Until February 1, 2001, obtained at least six months work experience, as defined in N.J.A.C. 13:30-2A.3, as a dental assistant, successfully completed a three-month internship program in the office and under the direct supervision of a New Jersey licensed dentist as set forth in N.J.A.C. 13:30-2A, passed the Certification Examination administered by DANB within 10 years prior to the date of the application, and passed the New Jersey Expanded Functions Examination administered by DANB.
- (b) An applicant for registration as a dental assistant shall submit a completed application to the Board which contains the following information and materials:
- 1. A certification by the board of dentistry in every state or jurisdiction in which the applicant is a registered dental assistant verifying that the applicant's registration in that state or jurisdiction is in good standing;
  - 2. Proof of the following, if applicable pursuant to (a) above:
    - i. A certificate of graduation from an approved educational program in dental assisting in which the expanded functions or duties listed in N.J.A.C. 13:30-2.4 are taught;
    - ii. A certificate of successful completion of an examination for clinical competency in expanded functions in dental assisting administered by DANB;
    - iii. A certificate of successful completion of an approved program in expanded functions in dental assisting. The Board shall recognize the following as providers of approved programs in expanded functions:
      - (1) An institution approved by the Commission on Dental Accreditation;
      - (2) Institutions of higher education which have met the standards of the Commission on Higher Education or a regional agency recognized by the Council on Post-Secondary Accreditation; or
      - (3) In-service training programs conducted at the graduate level by agencies of the Federal, State, or local government, which are substantially similar to programs described in (b)2iii(1) and (2) above;

- iv. A certificate of successful completion of a three-month internship program as set forth in N.J.A.C. 13:30-2A; and
  - v. A certificate of successful completion of the Registered Dental Assistant Certification Examination administered by DANB;
- 3. An affidavit of good moral character; and
  - 4. The application fee set forth in N.J.A.C. 13:30-8.1.

**13:30-2.3 Application for registration as limited registered dental assistant in orthodontics**

- (a) An applicant desiring to secure registration as a limited registered dental assistant in orthodontics shall have:
  - 1. Successfully completed high school (or its equivalent) and shall have:
    - i. Obtained at least two years work experience as a dental assistant in orthodontics during the five-year period prior to making application for registration, passed the New Jersey Orthodontics Certification Examination administered by the Dental Assisting National Board (DANB) within 10 years prior to the date of application, successfully completed a Board-approved program in expanded functions in orthodontics, and passed the New Jersey Expanded Functions in Orthodontics Examination administered by DANB; or
    - ii. Until February 1, 2001, obtained at least six months work experience, as defined in N.J.A.C. 13:30-2A.3, as a dental assistant in orthodontics, successfully completed a three-month internship program in the office and under the direct supervision of a New Jersey licensed dentist as set forth in N.J.A.C. 13:30-2A, passed the New Jersey Orthodontics Certification Examination administered by DANB within 10 years prior to the date of application, and passed the New Jersey Expanded Functions in Orthodontics Examination administered by DANB.
- (b) An applicant for registration as a limited registered dental assistant in orthodontics shall submit a completed application to the Board which contains the following information and materials:

1. A certification by the board of dentistry in every state or jurisdiction in which the applicant is a registered dental assistant verifying that the applicant's registration in that state or jurisdiction is in good standing;
2. Proof of the following, if applicable pursuant to (a) above:
  - i. A certificate of graduation from an approved educational program in dental assisting in which the expanded functions or duties as listed in N.J.A.C. 13:30-2.5 are taught;
  - ii. A certificate of successful completion of an examination for clinical competency in expanded functions in orthodontics administered by DANB;
  - iii. A certificate of successful completion of an approved program in expanded functions in orthodontics. The Board shall recognize the following as providers of approved programs in expanded functions:
    - (1) An institution approved by the Commission on Dental Accreditation;
    - (2) Institutions of higher education which have met the standards of the Commission on Higher Education or a regional agency recognized by the Council on Post-Secondary Accreditation; or
    - (3) In-service training programs conducted at the graduate level by agencies of the Federal, State, or local government, which are substantially similar to programs described in (b)2iii(1) and (2) above;
  - iv. A certificate of successful completion of a three-month internship program as set forth in N.J.A.C. 13:30-2A; and
  - v. A certificate of successful completion of the limited registered dental assistant certification examination administered by DANB;
3. An affidavit of good moral character; and
4. The application fee set forth in N.J.A.C. 13:30-8.1.

#### 13:30-2.4 Scope of practice of registered dental assistant

- (a) A registered dental assistant may perform the following duties under the direct supervision of a licensed dentist:

1. Isolate the operative field, including the placement and removal of rubber dams;
2. Place and remove matrices and wedges;
3. Place temporary sedative restorations;
4. Remove excess cement from crowns or other restorations and orthodontic appliances;
5. Remove sutures;
6. Fabricate and cement temporary crowns and bridges after preparation of tooth (teeth) by a dentist. This does not include intra-oral occlusal adjustment;
7. Take impressions for diagnostic models and models to be used as counters for fixed or removable prostheses;
8. Place amalgam and gold foil in a tooth for consideration by the dentist;
9. Place and remove retraction cords and medicated pellets;
10. Perform bite registration procedures to determine occlusal relationships of diagnostic models only;
11. Place and remove periodontal dressings and other surgical dressings;
12. Trial size (pre-select) orthodontic bands, wires, stainless steel crowns and temporary crowns intra-orally or on diagnostic models;
13. Remove arch wires and ligature wires;
14. Take impressions for and perform laboratory fabrication of athletic mouth guards. This shall not include insertion of the appliance;
15. Make radiographic exposures as permitted by the Department of Environmental Protection pursuant to N.J.S.A. 26:2D-24 et seq.;
16. Provide oral health education including dietary analysis and clinical instruction in order to promote dental health;
17. Apply topical anesthetic agents;
18. Take and record vital signs;

19. Retract patient's cheek, tongue or other tissue parts during a dental procedure;
  20. Remove such debris as is normally created in the course of treatment during or after dental procedures by vacuum devices, compressed air, mouthwashes and water;
  21. Hold a curing light for any dental procedure. Such curing light shall not include a laser;
  22. Take dental photographs including the use of intra-oral cameras;
  23. Select shades of prosthetic appliances; and
  24. Assist a licensed dentist in the administration of nitrous oxide, provided the licensed dentist is physically present in the operatory at all times during the procedure.
- (b) A dental assistant may provide a written work authorization for emergency repair of a dental prosthesis provided that the prosthesis shall not require any intra-oral procedure and shall be thereafter inserted by a licensed dentist.

#### 13:30-2.5      Scope of practice of limited registered dental assistant in orthodontics

- (a) A limited registered dental assistant in orthodontics may perform the following duties under the direct supervision of a New Jersey licensed dentist who has obtained a Board permit number to announce a specialty in orthodontics pursuant to N.J.A.C. 13:30-6.1:
1. Take impressions for diagnostic models to be used as counters for fixed or removable prostheses;
  2. Take impressions for and perform laboratory fabrication of athletic mouth guards. This shall not include insertion of the appliance;
  3. Make radiographic exposures as permitted by the Department of Environmental Protection pursuant to N.J.S.A. 26:2D-24 et seq.;
  4. Isolate the operative field, not to include rubber dams;
  5. Trial size (pre-select) orthodontic bands, wires, stainless steel crowns and temporary crowns intra-orally or on diagnostic models;

6. Take dental photographs including the use of intra-oral cameras;
  7. Perform bite registration procedures to determine occlusal relationships of diagnostic models only;
  8. Remove excess cement from crowns and other restorations and orthodontic appliances;
  9. Remove arch wires and ligature wires;
  10. Provide oral health education including dietary analysis and clinical instruction in order to promote dental health; and
  11. Remove such debris as is normally created in the course of treatment during or after dental procedures by vacuum devices, compressed air, mouthwashes and water.
- (b) A limited registered dental assistant in orthodontics may provide a written work authorization for emergency repair of a dental prosthesis provided that the prosthesis shall not require any intra-oral procedure and shall be thereafter inserted by a licensed dentist.

#### 13:30-2.6 Scope of practice of unregistered dental assistant

- (a) A dental assistant who has not obtained a registration from the Board may perform the following duties under the direct supervision of a licensed dentist:
1. Make radiographic exposures as permitted by the Department of Environmental Protection pursuant to N.J.S.A. 26:2D-24 et seq.;
  2. Provide oral health education including dietary analysis and clinical instruction in order to promote dental health;
  3. Apply topical anesthetic agents;
  4. Take and record vital signs;
  5. Retract patient's cheek, tongue or other tissue parts during a dental procedure;
  6. Remove such debris as is normally created in the course of treatment during or after dental procedures by vacuum devices, compressed air, mouthwashes and water;
  7. Isolate the operative field, not to include rubber dams;

8. Trial size (pre-select) orthodontic bands, wires, stainless steel crown, and temporary crowns on a diagnostic model only;
  9. Hold a curing light in any dental procedure. Such curing light shall not include a laser;
  10. Take dental photographs including the use of intra-oral cameras;
  11. Select shades for prosthetic appliances; and
  12. Assist a licensed dentist in the administration of nitrous oxide, provided the licensed dentist is physically present in the operatory at all times during the procedure.
- (b) An unregistered dental assistant may provide a written work authorization for emergency repair of a dental prosthesis provided that the prosthesis shall not require any intra-oral procedure and shall be thereafter inserted by a licensed dentist.

## SUBCHAPTER 2A. REGISTERED DENTAL ASSISTANT AND LIMITED REGISTERED DENTAL ASSISTANT THREE-MONTH INTERNSHIP PROGRAMS

### 13:30-2A.1 Purpose and scope

- (a) The rules in this subchapter implement the provisions of P.L. 1995, c.367, by establishing the required training which shall be included in a three-month dental assisting internship program.
- (b) This subchapter shall apply to an individual seeking registration as a dental assistant or a limited registered dental assistant in a dental specialty by completing a three-month internship program as an alternative to the primary registration pathway of completing an educational program for dental assistants as set forth in N.J.A.C. 13:30-2.2(a)1. This subchapter shall also apply to a New Jersey licensed dentist approved by the Board pursuant to N.J.A.C. 13:30-2A.7 to supervise an internship program.

### 13:30-2A.2 Prerequisites for participation in an internship program

- (a) To be eligible to participate in an approved internship program, an applicant shall have:
  1. Obtained a high school diploma or its equivalent;

2. Completed at least six months of work experience as a dental assistant pursuant to the provisions of N.J.A.C. 13:30-2A.3;
3. Obtained annual cardiopulmonary resuscitation (CPR) certification with the American Heart Association or the American Red Cross;
4. Passed the appropriate Dental Assisting National Board (DANB) examination, for example, General Chairside (GC) component of the Certified Dental Assistant (CDA) Examination or Certified Orthodontic Assistant (COA) Examination; and
5. Passed the DANB Infection Control Examination (ICE).

### 13:30-2A.3 Six months work experience; exception

- (a) For purposes of this section, “six months work experience” means a structured learning experience in the basic knowledge and skills necessary for the practice of dental assisting.
- (b) An intern shall render only those duties set forth in N.J.A.C. 13:30-2.4 during the six months work experience period.
- (c) During the six month work experience period, the supervisor shall prepare the intern for the Dental Assisting National Board General Chairside or Certified Orthodontic Assistant and the Dental Assisting National Board Infection Control Examination. The supervisor shall use a teaching module which has been approved by the Board and which includes a written post-test and, at a minimum, instruction and clinical training in the following functions:
  1. Collection and recording of clinical data;
  2. Chairside dental procedures;
  3. Chairside dental materials (preparation, manipulation, application);
  4. Laboratory materials and procedures;
  5. Universal precautions and prevention of disease transmission;
  6. Patient education and oral health management;
  7. Prevention and management of emergencies;
  8. Occupational safety; and
  9. Office management procedures.

#### 13:30-2A.4 Three-month internship program; general provisions

- (a) An individual seeking to supervise or participate in a three-month dental assisting internship program shall obtain the approval of the Board pursuant to N.J.A.C.13:30-2A.7. The Board shall approve only a New Jersey licensed dentist as the supervisor of an internship program.
- (b) An internship program shall consist of formal clinical training in general dentistry or in a dental specialty area within the office and under the direct supervision of a licensed New Jersey dentist pursuant to the provisions set forth in this subchapter. The program shall be designed to be completed in no less than three and no more than six months.
- (c) A registered dental assistant internship program in general dentistry shall be conducted in the office and under the direct supervision of a New Jersey dentist licensed for general practice.
- (d) A limited registered dental assistant internship program in a dental specialty shall be conducted in the office and under the direct supervision of a New Jersey licensed dentist who has obtained a Board specialty permit number pursuant to the provisions of N.J.A.C. 13:30-6.1.

#### 13:30-2A.5 Three-month internship program; required clinical training for a registered dental assistant

- (a) A supervisor shall not commence a three-month internship program until the intern has successfully completed all of the requirements set forth in N.J.A.C. 13:30-2A.2.
- (b) For clinical training for a registered dental assistant, the supervisor shall use a teaching module which has been approved by the Board and which includes, at a minimum, instruction and clinical training in the following functions:
  - 1. Making impressions for study models;
  - 2. Making bite registrations;
  - 3. Placing and removing retraction cord;
  - 4. Selecting, placing and removing rubber dam armamentarium;
  - 5. Preparing, placing and removing matrices and wedges;
  - 6. Constructing mouthguard appliance;

7. Selecting orthodontic bands;
8. Selecting arch wires;
9. Placing amalgam in cavity preparations;
10. Placing gold foil in cavity preparations;
11. Fabricating acrylic temporary crown restorations;
12. Removing orthodontic arch wires and ligature wires;
13. Cementing temporary crown and bridges and placing sedative restorations;
14. Removing excess cement;
15. Placing and removing dressings utilized following periodontal surgery and other surgical procedures; and
16. Removing sutures.

**13:30-2A.6 Three-month internship program; required clinical training for a limited registered dental assistant in orthodontics**

- (a) A supervisor shall not commence a three-month internship program until the intern has successfully completed all of the requirements set forth in N.J.A.C. 13:30-2A.2.
- (b) For clinical training for a limited registered dental assistant in orthodontics, the supervisor shall use a teaching module which has been approved by the Board and which includes, at a minimum, instruction and clinical training in the following functions:
  1. Making impressions for study models;
  2. Making bite registrations;
  3. Fabricating mouthguard appliances in the laboratory;
  4. Selecting orthodontic bands;
  5. Selecting arch wires;
  6. Removing orthodontic arch wires and ligature wires; and
  7. Removing excess cement.

### 13:30-2A.7 Supervisor of three-month internship program; general provisions

- (a) A New Jersey licensed dentist seeking Board approval to supervise an internship program shall forward to the Board a written request which includes:
  - 1. The dentist's name, current office address, current office telephone number and license number;
  - 2. A statement indicating whether the dentist shall conduct an internship program in general dentistry or in a dental specialty;
  - 3. If the dentist intends to conduct an internship program in a dental specialty, the dentist's specialty permit number;
  - 4. An outline of the teaching module which the dentist shall use in the internship program;
  - 5. A detailed description of the texts, videotapes, audiotapes or other program materials which the dentist shall utilize in the internship program; and
  - 6. The application fee as set forth in N.J.A.C. 13:30-8.1.
- (b) Upon receipt and evaluation of the materials set forth in (a) above, the Board shall determine whether the dentist is approved to conduct the internship program, and shall advise the applicant in writing of its determination.

### 13:30-2A.8 Responsibilities of supervisor

- (a) A licensed dentist may supervise no more than two interns in an approved program at any one time. A multi-dentist practice shall not supervise more than two interns at any one time.
- (b) The supervisor shall at all times be responsible for, and shall provide direct supervision of, the work performed by the intern. For purposes of this subsection, "direct supervision" means:
  - 1. When direct patient services are being provided, the supervisor shall be chairside at all times and readily available to provide advice, instruction and assistance to the intern and the patient; and

2. In all other instances, the supervisor shall be in the same facility as, and in proximity to, the location where the intern renders services.
- (c) The supervisor shall ensure that before an intern performs any direct patient services, the patient receives an oral explanation regarding the intern's status. The supervisor shall also ensure that the intern wears a badge which identifies himself or herself as an intern whenever rendering services or otherwise engaging in professional activity.
  - (d) The supervisor shall at all times be personally responsible for ensuring that the intern complies with accepted standards of practice, as set forth in this subchapter and N.J.S.A. 45:6-1 et seq.
  - (e) The supervisor shall assign only those patient treatments which are within the scope of practice of the supervisor and the scope of practice of the intern as set forth in N.J.A.C. 13:30-2A.5 and 2A.6; which the intern can perform safely and effectively; and which are consistent with the level of training of the intern.
  - (f) The supervisor shall notify the Board in writing within 10 days of the termination of any internship agreement for any reason.
  - (g) The supervisor shall file a final report with the Board, on a form provided by the Board, within 30 days after the intern completes the internship program. The final report shall include at least the following information:
    1. The name, address and current telephone number of the intern;
    2. An itemized list and description of the functions which the supervisor included in the teaching module and whether the intern demonstrated proficiency in each function;
    3. A description of any deficiency which the intern demonstrated during the program, an outline of any steps which the supervisor employed to address the deficiency, and whether the intern ultimately corrected the deficiency; and
    4. A detailed description of any extraordinary circumstances or significant information which arose throughout the course of the internship.

### 13:30-2A.9 Responsibilities of the intern

- (a) The intern shall wear a badge which identifies himself or herself as an intern when rendering services or otherwise engaging in professional activity.
- (b) The intern shall not provide services independently or without the supervision required pursuant to N.J.A.C. 13:30-2A.8 and shall not provide any services for which he or she is not trained or for which he or she is currently being trained.
- (c) The intern shall comply with the standards of practice set forth in this chapter as well as all applicable requirements of N.J.S.A. 45:6-1 et seq.

### 13:30-2A.10 Examination

- (a) An intern who has completed a three-month internship program shall be permitted to continue to work under direct supervision pending the results of the Dental Assisting National Board (DANB) certification examination.
- (b) An intern who fails the DANB certification examination shall be permitted to continue to work as an intern under direct supervision provided the intern registers for the next scheduled examination.
- (c) An intern who fails the DANB examination for the second time shall be required to repeat the internship program.

## SUBCHAPTER 3. APPLICANTS FOR LIMITED TEACHING CERTIFICATE IN A DENTAL SCHOOL

### 13:30-3.1 Qualifications of applicants

- (a) A dentist desiring to teach in any branch of dentistry shall hold an active New Jersey license to practice dentistry or shall have procured a Limited Teaching Certificate from the New Jersey State Board of Dentistry, renewable annually prior to October 1.
- (b) An applicant for such limited license must have general and technical knowledge similar to that required in this State for a license to practice dentistry without limitation.
- (c) An applicant for a limited teaching certificate shall submit a certification from the secretary or dean of a dental school, college or department of a university approved by the Board or by the Com-

mission on Dental Accreditation, verifying that the applicant has obtained a dental degree from such institution.

- (d) An applicant for a limited teaching certificate shall submit a certification verifying the successful completion of 20 hours of continuing education during the preceding year, consistent with the requirements of N.J.A.C. 13:30-5.1, provided, however, that no applicant shall receive credit for more than 10 hours of continuing education obtained as a result of a teaching appointment.

### 13:30-3.2 Application procedure

- (a) The applicant for a limited teaching certificate shall:
  - 1. Obtain from the Executive Director of the Board an application for a limited teaching certificate;
  - 2. Submit a completed application which shall include a certification of graduation from an accredited dental school by an authorized official of the dental school and a certification verifying the completed continuing education requirements;
  - 3. Give two character references from licensed New Jersey dentists; and
  - 4. Have the completed application notarized.

### 13:30-3.3 Limitations on certificate

- (a) Teaching certificates shall be valid only in and upon the premises designated in the certificate in which the science of dentistry in any of its branches is taught.
- (b) No limited teaching certificate shall be deemed to authorize the licensee to engage in the private practice of dentistry either within or without the premises designated in the certificate.

### 13:30-3.4 Educational institutions

- (a) Every educational institution where the science of dentistry is practiced, demonstrated or taught in any of its branches shall submit to the Board each year prior to October 1, a roster of all persons engaged in teaching any of the clinical subjects or who act as demonstrators or teachers in the laboratories or clinics where the practice of dentistry of any kind is performed on patients.

- (b) The Board shall prescribe a form for such roster and make rules governing their submission.

#### SUBCHAPTER 4. INDUSTRIAL OR CORPORATE CLINICS

##### 13:30-4.1 Industrial or corporate clinic defined

“An industrial or corporate clinic” means a privately owned clinic maintained and operated by an industrial corporation, an organization composed of the management of several industries, or a labor organization(s) or any combinations thereof where dentistry in any or all of its branches is practiced, demonstrated or taught on a nonprofit basis for the benefit of the employees of the industries involved and their dependents or for the benefit of the members of the labor organization(s) and their dependents.

##### 13:30-4.2 Application for permit

- (a) All industrial or corporate agencies that wish to operate a dental clinic in New Jersey shall make application to the New Jersey State Board of Dentistry and pay the fee set forth in N.J.A.C. 13:30-8.1 for a permit to operate such a clinic.
- (b) A dental clinic permit shall be effective upon the date the Board approves the application and shall terminate on December 31, of the same year.
- (c) All industrial or corporate agencies that wish to operate a dental clinic in New Jersey shall define in the dental clinic application the type of services to be rendered at the clinic.
- (d) All industrial or corporate agencies that wish to operate more than one dental clinic shall apply for a separate permit for each dental clinic to be operated.

##### 13:30-4.3 Documents submitted with application for permit

- (a) The following information and materials shall accompany the application for a dental clinic permit:
  - 1. A floor plan of the clinic (to scale) setting forth:
    - i. Operatories;
    - ii. Recovery rooms;
    - iii. Reception room or rooms;
    - iv. Rest-room facilities;

- v. Laboratory facilities;
  - vi. Storage-room facilities; and
  - vii. Record room;
2. A list of all personnel connected with the clinic setting forth:
- i. The name, home address and license number of the director;
  - ii. The name, home address and license number of each dentist;
  - iii. The name, home address and license number of each dental hygienist;
  - iv. The name and home address of each dental assistant;
  - v. The name and home address of each dental technician;
  - vi. The names, titles and home addresses of all other personnel;
  - vii. If the clinic is to be operated by a public corporation, the names and addresses of all directors and officers of the corporation;
  - viii. If the clinic is to be operated by a closed corporation, the names and addresses of all directors, officers and stockholders of the corporation;
  - ix. If the clinic is to be operated by an entity other than a public or closed corporation, the names and addresses of all persons having any responsibility with respect to the maintenance, operation, or establishment of the clinic in either a professional or business capacity; and
  - x. Information concerning whether any person listed in the clinic application pursuant to (a)2 above has been convicted of a crime, including the dates of the conviction and a description of the nature of the conviction or whether any criminal charges are pending;
3. A copy of all contracts involving the clinic including:
- i. A list of services to which eligible persons are entitled;
  - ii. A copy of the contract between the owner of the clinic and the dental director;

- iii. A copy of the contract between the owner of the clinic and the dentists;
  - iv. A copy of the contract between the owner of the clinic and the dental hygienists and all other personnel;
  - v. If the dental director engages the services of dentists and dental hygienists and other personnel, a copy of such contracts;
  - vi. If the dentists are to be remunerated on a fee for service basis, a copy of the fee schedule; and
4. A proposed budget for the operation of the clinic and a financial statement of the applicant.
- (b) All contracts specified in (a)3 above shall be filed with the New Jersey State Board of Dentistry and no change shall be made to such contracts without prior Board approval.

#### 13:30-4.4 Permits not transferable

Clinic permits shall not be transferable.

#### 13:30-4.5 Annual certificate of renewal

- (a) Every dental clinic in New Jersey that has been issued a permit to operate pursuant to this subchapter shall procure from the Executive Director of the Board on or before January 1 each year an annual certificate of renewal. Such certificate shall be issued by the Executive Director upon the payment of the renewal fee set forth in N.J.A.C. 13:30-8.1.
- (b) The Executive Director of the Board shall on or before December 1 each year, mail to each holder of a clinic permit a printed renewal application to be filled out and returned by the permit holder to the Executive Director.
- (c) Upon receipt of the renewal application, the annual certificate of renewal shall be issued and transmitted to the permit holder.
- (d) Any industrial or corporate clinic that fails to procure an annual certificate of renewal or gives misleading or false information on a request for an annual certificate of renewal shall be subject to disciplinary action pursuant to the provisions of N.J.S.A. 45:1-25.

#### 13:30-4.6 Changes require Board approval

No industrial or corporate clinic shall make a change in its administrative organization, personnel, construction, physical plant or, stated objectives without first apprising the Board of such contemplated changes and receiving written approval from the Board.

#### 13:30-4.7 Provision of services

No dental procedure shall be performed in any dental clinics operated, conducted or maintained in this State pursuant to this subchapter except by licensed dentists or licensed dental hygienists in accordance with the provisions of N.J.S.A. 45:6-1 et seq. and this chapter.

#### 13:30-4.8 (Reserved)

#### 13:30-4.9 Standards of service and facilities

- (a) A dental clinic shall provide only those services set forth in the clinic permit application pursuant to N.J.A.C. 13:30-4.2.
- (b) The dental clinic permit holder shall ensure that:
  - 1. The services rendered at the dental clinic are provided consistent within the requisite standard of care for Board licensees;
  - 2. The clinic facilities consist of adequate dental equipment and armamentarium, including proper and efficiently operating sterilizing and sanitary devices;
  - 3. The recovery rooms and emergency equipment meet hospital standards;
  - 4. The rest rooms and waiting rooms are of sufficient number and size to accommodate the number of patients to be treated at the clinic; and
  - 5. The clinic complies with all rules adopted for such places of health service as promulgated by the New Jersey State Department of Health and Senior Services and any other State and/or local governmental agency.

#### 13:30-4.10 Inspection; requirements of director

- (a) Members of the New Jersey State Board of Dentistry or their duly appointed representatives may visit the dental clinic for the purpose of inspection.
- (b) The director of the clinic shall be a dentist. The director and all dentists or dental hygienists employed in the dental clinic shall be licensed to practice dentistry or dental hygiene in the State of New Jersey.
- (c) The director shall be responsible for all activities performed by clinic personnel, including any dental decisions made by professional and auxiliary personnel employed in the clinic.
- (d) The director shall be responsible for the use of the dental clinic by any person engaged in the illegal practice of dentistry and shall be subject to prosecution if any offenders are found guilty of such illegal practice.
- (e) All names of persons employed by the dental clinic and their titles of employment shall be furnished to the Board at the time of permit renewal.
- (f) Dental hygienists employed by the dental clinic shall provide only those services permitted pursuant to N.J.A.C. 13:30-1A.2.
- (g) The director shall furnish to the Board the clinic's method of operation as to control, direction and authority in dental matters including:
  - 1. To whom the director reports; and
  - 2. Type of service rendered by the clinic.

#### SUBCHAPTER 5. CONTINUING EDUCATION

##### 13:30-5.1 Continuing dental education requirements for dentists

- (a) Continuing education shall be a mandatory requirement for license renewal, except that the Board shall not require completion of continuing dental education credits for initial registration of dentists. All licensed dentists shall submit a certification verifying completion of 40 hours of continuing dental education every two years at the time of registration renewal, except for the following:

1. Any licensee who holds an inactive license or a retired license pursuant to N.J.A.C. 13:30-1.6 shall be exempt from the requirements of this subchapter, except as provided in (a)1i and ii below:
  - i. Any inactive or retired licensee, any licensee who has had his or her license revoked or suspended, who has ceased practicing dentistry in all states or jurisdictions in which the licensee may practice and who desires to resume the practice of dentistry in New Jersey shall complete a minimum of 20 hours of continuing education for each year of inactive, retired, revoked or suspended licensure, not to exceed a cumulative total of 80 hours, 40 hours of which shall have been obtained within two years of the date of application for resumption of practice.
  - ii. Any inactive or retired licensee, or any licensee who has had his or her license revoked or suspended, who has continued the practice of dentistry in any state or jurisdiction other than New Jersey and who desires to resume the practice of dentistry in New Jersey shall complete a minimum of 20 hours of continuing education for each year of inactive, retired, revoked or suspended registration, not to exceed a cumulative total of 40 hours, 20 hours of which shall have been obtained within two years of the date of application for resumption of practice.
2. A licensee whose license has expired pursuant to N.J.A.C. 13:30-1.7 shall complete a minimum of 40 hours of continuing education for each biennial period the license was expired.
3. A licensee who was initially licensed during the preceding biennial period, except as provided in (a)4 below, shall submit a certification verifying the completion of continuing dental education credits on a pro rata basis as follows:
  - i. Licensed November-January in the first year of period ..... 40 credits;
  - ii. Licensed February-April in first year of period 35 credits;
  - iii. Licensed May-July in first year of period 30 credits;

- iv. Licensed August-October in the first year  
of period ..... 25 credits;
  - v. Licensed November-January in second year  
of period ..... 20 credits;
  - vi. Licensed February-April in second year  
of period ..... 15 credits;
  - vii. Licensed May-July in second year of period ..... 10  
credits;  
and
  - viii. Licensed August-October in second year  
of period ..... Five credits.
4. An individual who graduates from a dental school or who completes a residency program in the first year of the biennial period shall complete 20 credits of continuing education. An individual who graduates from a dental school or who completes a residency program in the second year of the biennial period shall be exempt from continuing education requirements for that biennial period.
- (b) One hour of continuing education credit shall be granted for each hour of instruction at lectures, seminars, clinical or laboratory participatory courses, the program portion of dinner and other meetings of national, constituents, and components of dental professional associations recognized by the Board, or other educational methods as may be approved by the Board, excluding time spent at meals, breaks or business sessions. Credit shall be granted only for full instructional hours, but not for less than one instructional hour. Successful completion of an entire course or segment of course instruction is required in order to receive any continuing education credit. Unless otherwise provided, only in class participation, not student time devoted to preparation, shall be counted toward continuing dental education.
- (c) It shall be the responsibility of each licensee to maintain a record of all continuing education activity completed and to be prepared to submit evidence of completion of the credit requirements to the Board upon request. Each licensee shall obtain from the continuing education course sponsor and retain for a period of four years a record of attendance which shall include, at a minimum, the following:

1. The participant's name;
  2. The title or subject area of the course;
  3. The instructor's name;
  4. The course sponsor;
  5. The date and location of the course;
  6. The number of hours; and
  7. Verification of successful completion by the course sponsor.
- (d) The Board shall monitor compliance with the mandatory continuing dental education requirement by requesting some licensees, at the discretion of the Board, to provide documentary proof of successful completion of continuing education credits.
- (e) All continuing education activities to be accepted for credit shall have significant intellectual or practical content which deals primarily with matters directly related to the practice of dentistry or with the professional responsibilities or ethical obligations of licensees. Subjects such as estate planning, financial or investment/tax planning, and personal health shall not be acceptable for continuing education credit.
- (f) If a continuing education sponsor desires prior approval for a course of acceptable subject matter and seeks to be assigned a designated number of continuing education credits by the Board, the program sponsor shall provide, in writing and on a form provided by the Board, information required by the Board to document that the course meets the following requirements:
1. The course is offered in a subject matter and in a format permissible pursuant to the provisions of this section;
  2. The course is conducted by a qualified instructor or discussion leader; and
  3. The course is at least one hour in length.
- (g) Applications for pre-approval of continuing education programs shall be submitted by the program sponsor on the form provided by the Board at least 45 days prior to the date the continuing education program is to be offered. Incomplete applications shall be returned to the sponsor and may result in an inability to grant approval prior to commencement of the program. Although an in-

ability to obtain prior approval may not preclude acceptance of the program, there is no assurance that the Board will grant approval retroactively.

- (h) A licensee may obtain continuing education credits from any of the areas of study listed below. A licensee shall not exceed the maximum number of hours permitted in each area of study for each biennial period, as set forth in (h)1 through 4 below.
  - 1. Educational and scientific courses related to the practice of dentistry;
    - i. A licensee may obtain 40 hours of continuing education in this category.
    - ii. The following shall satisfy the requirement of 40 hours of continuing education for a biennial registration period:
      - (1) Completion of an accredited one-year dental residency program; or
      - (2) Attendance at, or completion of, an approved advanced education program leading to specialty certification in endodontics, oral surgery, oral pathology, orthodontics, pediatric dentistry, periodontics, prosthodontics or public health.
    - iii. A maximum of 15 hours of continuing education credit shall be given to a student or an instructor for basic Cardiopulmonary Resuscitation courses or Advanced Cardiac Life Support courses.
    - iv. A maximum of 10 hours of continuing education credit shall be given for videotape, audiotape or written or electronic correspondence courses. The videotape, audiotape or correspondence course shall include a written post-test, and such test shall be retained by the licensee as an additional record of completion of the course.
    - v. A maximum of seven hours of continuing education credit shall be given for practice management/managed care courses;
  - 2. Papers, publications and scientific presentations:
    - i. A licensee may obtain a maximum of 20 hours of continuing education credit in this category.

- ii. A maximum of 10 hours of continuing education credit shall be given for each original scientific paper authored by the licensee and published in a refereed journal. At the discretion of the Board, the 10 hours may be divided among co-authors based upon the length of the scientific paper and the contributions of each author.
  - iii. For each original presentation of a paper, essay or formal lecture to a recognized group of fellow professionals, a licensee shall receive two hours of continuing education credit for every hour of presentation;
3. Teaching and research appointments:
- i. A licensee involved in teaching or research activities at least one full day or the equivalent of one full day per week per academic year and who holds at least a part-time faculty or research appointment shall receive four hours of continuing education credit annually for each full day of teaching or research activity or two hours annually for each half day of teaching or research activity.
  - ii. A licensee may obtain a maximum of 20 hours of continuing education credit in this category in a biennial period.
4. Table clinics and scientific exhibits:
- i. A licensee may obtain a maximum of eight continuing education hours in this category.
  - ii. A licensee may obtain up to one hour of continuing education for each two hours of original presentation of a table clinic or scientific exhibit at a professional meeting.
  - (i) Licensees who complete the required 20 hours of continuing education credit pursuant to the requirements for parenteral conscious sedation and/or general anesthesia permit holders as set forth in N.J.A.C. 13:30-8.2 and 8.3 shall be given credit for all 20 hours so completed.
  - (j) A maximum of seven continuing education credits completed by a licensee in excess of the 40 credit hours required pursuant to (a) above may be credited to the subsequent biennial registration period.
  - (k) Any continuing education courses taken by a licensee at the direction or order of the Board as a remedial measure

shall not be used to fulfill the continuing education requirement set forth in (a) above.

- (l) The Board may, in its discretion, waive all or a portion of the requirements for continuing education on an individual basis for reasons of hardship such as illness or disability or other good cause. Any licensee seeking a waiver of continuing education requirements shall apply to the Board in writing and set forth with specificity the reasons for requesting the waiver. The licensee shall also provide the Board with such additional information as the Board may reasonably request in support of the application.

### 13:30-5.2 Continuing education requirements for dental hygienists

- (a) All licensed dental hygienists shall submit a certification verifying the completion of 10 hours of continuing education every two years at the time of registration renewal, except as provided in (b) and (c) or (e) below. No more than four hours of continuing education in the two year period may be obtained through written or electronic home study courses.
- (b) A licensed dental hygienist who is inactive pursuant to N.J.A.C. 13:30-1A.3, or has had his or her license revoked or suspended, shall be exempt from the provisions of this section, except that any inactive, revoked or suspended dental hygienist who desires to resume the practice of dental hygiene shall complete a minimum of five hours of continuing education if such licensee is inactive, revoked or suspended for one year or less. If a licensee has been inactive, revoked or suspended for more than one year, the licensee shall complete a minimum of 10 hours of continuing education.
- (c) A licensed dental hygienist whose license has expired, pursuant to N.J.A.C. 13:30-1A.5, shall complete a minimum of 10 hours of continuing education for each biennial period the license was expired.
- (d) An individual who graduates from a program in dental hygiene in the first year of the biennial period shall complete five credits of continuing education for biennial renewal. An individual who graduates from a program in dental hygiene in the second year of the biennial period shall be exempt from continuing education requirements for that biennial period.

- (e) The following shall be considered acceptable forms of continuing education:
1. Scientific courses applicable to the delivery of dental care by dental hygienist, including preventive services, radiography, dental photography, nutrition, patient counseling, community health, Cardiopulmonary Resuscitation or Advanced Cardiac Life Support certification, and infection control;
  2. Courses which directly relate to or concern the practice of dentistry, including organization and office management, office design, communication skills, behavioral science, dental-legal matters and methods of health care delivery; and
  3. Teaching and research appointments:
    - i. A licensee involved in teaching or research activities at least one full day or the equivalent of one full day per week per academic year and who holds at least a part-time faculty or research appointment shall receive two hours of continuing education credit annually for each full day of teaching or research and one credit annually for each half day of teaching or research.
    - ii. A licensee may obtain a maximum of 10 continuing education credit hours for teaching and research appointments in a biennial period.
- (f) The Board shall recognize as acceptable the courses of study and amount of hours credited in continuing education programs approved by the following, provided that the courses satisfy the minimum requirements set forth in this subchapter:
1. The American Dental Association and its constituents and components;
  2. The Academy of General Dentistry and its constituents and components;
  3. The American Dental Hygienists Association and its constituents and components;
  4. The American Dental Assistants' Association and its constituents and components; and
  5. Accredited colleges or universities.

- (g) A licensee shall maintain a record of all continuing education activity completed and shall submit a certification verifying the completion of the credit requirements to the Board upon request. Each licensee shall obtain from the continuing education course sponsor and retain for a period of four years a record of attendance which shall include, at a minimum, the following:
1. The participant's name;
  2. The title or subject area of the course;
  3. The instructor's name;
  4. The course sponsor;
  5. The date and location of the course;
  6. The number of hours; and
  7. Verification of successful completion by the course sponsor.
- (h) The Board may inspect the licensee's records upon request as may be necessary to insure that the continuing education requirements have been satisfied.

**13:30-5.3 Continuing education requirements for registered dental assistants and limited registered dental assistants in orthodontics**

- (a) All registered dental assistants and limited registered dental assistants in orthodontics shall submit a certification verifying the completion of 10 hours of continuing education every two years at the time of registration renewal. No more than four hours of continuing education in the two year period may be obtained through written or electronic home study courses.
- (b) The following shall be considered acceptable forms of continuing education:
1. Scientific courses applicable to the delivery of dental care by dental auxiliaries, including preventive services, radiography, dental photography, nutrition, patient counseling, community health, Cardiopulmonary Resuscitation or Advanced Cardiac Life Support certification, and infection control;
  2. Courses which directly relate to or concern the practice of dentistry, including organization and office management, office de-

sign, communication skills, behavioral science, dental-legal matters and methods of health care delivery; and

3. Teaching and research appointments:
  - i. A registrant involved in teaching or research activities at least one full day or the equivalent of one full day per week per academic year and who holds at least a part-time faculty or research appointment shall receive two hours of continuing education credit annually for each full day of teaching or research and one credit annually for each half day of teaching or research.
  - ii. A registrant may obtain a maximum of 10 continuing education credit hours for teaching and research appointments in a biennial period.
- (c) The Board shall recognize as acceptable the courses of study and amount of hours credited in continuing education programs approved by the following, provided that the courses satisfy the minimum requirements set forth in this subchapter:
  1. The American Dental Association and its constituents and components;
  2. The Academy of General Dentistry and its constituents and components;
  3. The American Dental Hygienists Association and its constituents and components;
  4. The American Dental Assistants' Association and its constituents and components; and
  5. Accredited colleges or universities.
- (d) A registrant shall maintain a record of all continuing education activity completed and shall submit a certification verifying the completion of the continuing education credit requirements to the Board upon request. Each registrant shall obtain from the continuing education course sponsor and retain for a period of four years a record of attendance which shall include, at a minimum, the following:
  1. The participant's name;
  2. The title or subject area of the course;

3. The instructor's name;
  4. The course sponsor;
  5. The date and location of the course;
  6. The number of hours; and
  7. Verification of successful completion by the course sponsor.
- (e) The Board may inspect the registrant's records upon request as may be necessary to insure that the continuing education requirements have been satisfied.

## SUBCHAPTER 6. ADVERTISING

### 13:30-6.1 Announcement of practice in a special area of dentistry

- (a) A licensee who seeks to announce to the public that he or she is a specialist or specializes in one or more area(s) of dental practice listed in (c) below shall first obtain a permit to do so from the Board of Dentistry.
- (b) A licensee shall apply to the Board for permission to announce a dental specialty. When granted a permit to announce a specialty in a designated area(s) of dentistry, a licensee shall display the specialty permit or a copy of the specialty permit in all office location(s) during the period of specialty practice. If a licensee discontinues a specialty practice, the specialty permit shall be returned to the Board.
- (c) The following special areas of dentistry may be announced as specialty dental practices:
  1. Endodontics;
  2. Oral or maxillofacial surgery;
  3. Oral or maxillofacial radiology;
  4. Oral pathology;
  5. Orthodontics;
  6. Pediatric dentistry (also called Pedodontics);
  7. Periodontics;
  8. Prosthodontics; and

9. Public health.

- (d) The Board shall grant permission to announce a dental specialty or specialization of a dental practice to:
1. A licensed dentist who is certified or eligible for certification by a specialty board recognized by the American Dental Association appropriate to that area of dental practice listed in (c) above; or
  2. A licensed dentist who successfully completes a post-doctoral education of two or more years in duration in one or more of the specialty areas listed in (c) above and which, at the time of completion, was accredited or provisionally accredited by the American Dental Association Council on Dental Education.
- (e) A licensed dentist permitted to announce a specialty in an area of dentistry pursuant to (d) above shall avoid any inference, implication or announcement by press, sign, card, letterhead or printed matter or any other means of public advertising that another licensed dentist who is associated with or employed in the same practice, but who is not permitted to announce a specialization, is also qualified for the announcement in the specialty practice area.
- (f) This section shall not prohibit any licensed dentist from engaging in any aspect of the practice of dentistry in accordance with N.J.S.A. 45:6-1 et seq., and the rules in this chapter.
- (g) Applications for a specialty permit may be obtained by writing to the Office of the Board of Dentistry, 124 Halsey Street, PO Box 45005, Newark, New Jersey 07101.

13:30-6.2 Professional advertising

- (a) The following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

“Advertisement” means any attempt directly or indirectly by publication, dissemination, solicitation, endorsement or circulation or in any other way to attract directly or indirectly any person to enter into an express or implied agreement to accept dental services or treatment related thereto.

“Electronic media” means radio, television and the Internet.

“Print media” means newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, flyers and other simi-

lar documents or comparable publications, the content of which is disseminated by means of the printed word. “Printed media” shall also include stationery and business cards.

“Range of fees” means an expressly stated upper and lower limit on the fee charged for a professional service.

“Routine professional service” means a service which the advertising licensee, professional association or institution providing dental care routinely performs.

(b) A licensed dentist who is actively engaged in the practice of dentistry in the State of New Jersey may advertise in print or electronic media in a dignified manner. For purposes of this section, “dignified manner” means that an advertisement does not rely in any way on techniques to obtain attention that depend upon absurdity or that demonstrate a clear and intentional lack of relevance to the selection of a dentist; included in this category are all advertisements that contain any extreme portrayal of dentists exhibiting characteristics clearly unrelated to the competence of the dentist.

(c) No advertisement shall contain:

1. Any statement or claim which is false, fraudulent, misleading or deceptive;
2. Claims that the service performed or the materials used are professionally superior to that which is ordinarily performed or used;
3. Promotion of a professional service which the licensee knows or should know is beyond the licensee’s ability to perform;
4. Techniques of communication which appear to intimidate, exert undue pressure or undue influence over a prospective patient;
5. The use of any personal testimonial attesting to the technical quality or technical competence of a service or treatment offered by a licensee. Other testimonials shall be permitted provided the testimonials do not violate any other section of this chapter;
6. The communication of personally identifiable facts, data, or information about a patient without first obtaining the written consent of the patient;

7. The use of any misrepresentation;
  8. The suppression, omission or concealment of any material fact under circumstances which a licensee knows or should know that the omission is improper or prohibits a prospective patient from making a full and informed judgment, on the basis of the information set forth in the advertisement; and
  9. Any print, language or format which directly or indirectly obscures a material fact.
- (d) The Board may require a licensee to substantiate the truthfulness of any objective assertion or representation set forth in an advertisement.
  - (e) All advertisements shall contain the licensee's name and the phrase "General Dentist," or, if the licensee holds a specialty permit pursuant to N.J.A.C. 13:30-6.1, the phrase "N.J. Specialty Permit No. \_\_\_\_\_" and the specialty for which the permit is granted.
  - (f) If a dentist, other than a specialist granted a specialty permit by the Board, wishes to advertise services in one or more of the special areas of dentistry in N.J.A.C. 13:30-6.1(c), such advertisement shall contain the licensee's name and the phrase "General Dentist" immediately preceding or following each specialty area claim in a type size and style at least as prominent as any service described as being offered in the practice. The advertisement shall not use the terms "specialist," "specialty," "specializing," "practice limited to," or any other word or phrase connoting that the licensee is a specialist. The advertisement of services exclusively in one specialty area shall be limited to those licensees who practice that specialty at all times and in all locations.
  - (g) If a dentist advertises under a banner heading for any of the special areas of dentistry in N.J.A.C. 13:30-6.1(c) in any directory (for example, telephone book yellow pages), such advertisement shall contain the licensee's name, and either the phrase "General Dentist" or "N.J. Specialty Permit No. \_\_\_\_\_" and the specialty in which the permit is granted.
  - (h) If a dentist wishes to advertise services in an area of dentistry other than the recognized special areas of dentistry in N.J.A.C. 13:30-6.1(c), such advertisement shall not use the term "specialist," "specialty," "specializing," "practice limited to," or any other

word or phrase connoting that the licensee is a specialist or that the area of dentistry is a recognized specialty.

- (i) If a licensee advertises that he or she has obtained master, member, fellow or diplomate status in any dental organization, the advertisement shall disclose the licensee's status as either a general dentist or as the holder of a specialty permit pursuant to N.J.A.C. 13:30-6.1, the name of the dental organization, and if the advertisement concerns an area of practice not recognized as a specialty pursuant to N.J.A.C. 13:30-6.1(c), that the services provided are not a recognized dental specialty.
- (j) A licensee may use a patient's photograph as part of an advertisement provided the licensee obtains the patient's written permission to do so. A licensee may use a photograph of a model as part of an advertisement to represent services that may be performed by the licensee provided the licensee discloses in the advertisement that the photograph does not represent services actually performed by the licensee.
- (k) A licensee shall not engage in uninvited, in-person solicitation of actual or potential patients who, because of their particular circumstances, are vulnerable to undue influence. This subsection shall not prohibit the offering of services by a licensee to any bona fide representative of prospective patients including employers, labor union representatives, or insurance carriers.
- (l) Advertising making reference to setting forth a fee or the provision of a free service shall contain a fixed or a stated range of fees for a specifically described professional service.
  - 1. Such advertisements shall disclose all the relevant variables and considerations which are ordinarily included in such a service so that the fees will not be misunderstood, including the actual components of the specific professional service described, and any other services that are recommended as part of advertised professional service for which a fee may be charged. In the absence of such a disclosure, the stated fees shall be presumed to include everything ordinarily required for such a service.
- (m) Offers of discounts or fee reductions or free services shall indicate the advertiser's fixed or stated range of fees against which the discount is to be made and/or the value of the free service.

1. The fixed or stated range of fees or value of free service shall mean and be established on the basis of the advertiser's most commonly charged fee for the stated service within the most recent 60 days prior to, or to be charged in the first 60 days following, the effective date of the advertisement.
  2. Offers of across-the-board discounts shall include a representative list of services and the fixed or stated range of fees against which discounts are to be made for these services. The list for general dentistry shall include a sampling of the advertiser's most frequently performed services from the areas of preventive, diagnostic, restorative, endodontic, periodontic, prosthodontic (fixed and removable) dentistry, and oral surgery.
- i. "Across-the-board discounts" shall mean the offer of a specified discount on an undefined class of services or the offer of a specified discount to a defined class of patients (for example, "15 percent discount during April on all dental services" or "15 percent discount to senior citizens on all dental services").

ii. Example of Representative List of Services:

|                            | Regular Fee | Discount Fee |
|----------------------------|-------------|--------------|
| Prophylaxis .....          | \$          | \$           |
| Examination .....          |             |              |
| Complete X-Rays .....      |             |              |
| One Surface Filling .....  |             |              |
| Root Canal .....           |             |              |
| Crown .....                |             |              |
| Periodontal services ..... |             |              |
| Complete Denture .....     |             |              |
| Simple Extraction .....    |             |              |

3. The effective period during which a fee or discount shall remain in effect shall be set forth on the face of the advertisement. In the absence of such disclosure and solely for the purposes of enforcement, the effective period shall be deemed to be 30 days from the date of the advertisement's initial publication.

4. A licensee who holds a specialty permit, as permitted by N.J.A.C. 13:30-6.1, shall in a manner similar to that in (m)2 above, include a representative list of the most frequently performed services in the advertiser's office.
- (n) All licensee advertisements shall contain the name, address and telephone number of the licensee, professional service corporation or trade name under which the practice is conducted and shall also set forth the names of all licensees who are principals, partners, or officers in the professional service facility identified in the advertisement.
- (o) A licensee shall be presumed to have approved and shall be personally responsible for the form and contents of an advertisement which contains the licensee's name, office address, or telephone number or which is published or caused to be published by an entity to which the licensee has paid a fee or when the licensee has agreed to have his or her name listed as a participant pursuant to (p) below. A licensee who employs or allows another to employ for his benefit an intermediary source or other agent in the course of advertising shall be personally responsible for the form and contents of said advertisement.
- (p) Two or more licensees who are not associates, as defined in N.J.A.C. 13:30-8.13, may collectively advertise dental services. If the design of the collective advertisement could reasonably have the appearance to the public of being a dental referral service, the advertisement shall be accompanied by the phrase, prominently displayed in capital letters, in type no smaller than the smallest type in the advertisement, and in no event less than 10 point type: "THIS IS AN ADVERTISEMENT PAID FOR BY THE PARTICIPATING DENTISTS--IT IS NOT A DENTIST REFERRAL SERVICE." Whenever such advertisement has an audio component, the phrase shall be recited by the narrator at least once prior to the conclusion of the advertisement at decibel level equal to the highest decibel level used in the advertisement and at a speed equal to or slower than any other statement contained in the advertisement.
1. An advertisement shall contain the name, address, telephone number and license number of at least one licensee who is a participant in the collective advertising program. A licensee whose name, address, telephone number and license number appears in a collective advertisement shall provide a list of all

other program participants to the Board or a member of the public upon oral or written request. If more than 50 percent of the patients who respond to a collective advertisement are directed to one licensee or one dental practice, disclosure of that fact shall be made clearly and unambiguously in all advertisements.

- (q) A licensee shall be required to keep copies of all advertisements for a period of three years and such copies shall be made available to the Board upon request. A video or audio tape of every advertisement communicated by electronic media, or a printed copy of an advertisement communicated on the Internet, shall also be retained by the licensee. All copies of advertisements in the licensee's possession shall indicate the date and place of publication.

#### SUBCHAPTER 7. (RESERVED)

#### SUBCHAPTER 8. GENERAL PROVISIONS

##### 13:30-8.1 Fee schedules

- (a) The application fees charged by the Board of Dentistry shall be the following:

1. Dentists ..... \$125.00
2. Dentists Hygienists ..... \$ 75.00
3. Registered Dental Assistants and Limited  
Registered Dental Assistants ..... \$ 35.00
4. Supervisor of three-month internship program  
for training of registered dental assistants ..... \$35.00

- (b) The biennial registration fees charged by the Board of Dentistry shall be the following:

1. Dentists:
  - i. Initial registration fee:
    - (1) If paid during the first year of a biennial  
renewal period ..... \$170.00
    - (2) If paid during the second year of a biennial  
renewal period ..... \$85.00
  - ii. Active registration renewal ..... \$170.00

- iii. Inactive registration renewal ..... \$70.00
    - iv. Initial branch office registration, dentist:
      - (1) If paid during the first year of a biennial renewal period..... \$44.00
      - (2) If paid during the second year of a biennial renewal period..... \$22.00
    - v. Branch office registration renewal, dentist..... \$44.00
  - 2. Dental Hygienists:
    - i. Initial registration fee:
      - (1) If paid during the first year of a biennial renewal period..... \$50.00
      - (2) If paid during the second year of a biennial renewal period..... \$25.00
    - ii. Active registration renewal ..... \$50.00
    - iii. Inactive registration renewal ..... \$26.00
    - iv. Initial branch office registration, dental hygienists
      - (1) If paid during the first year of a biennial renewal period..... \$26.00
      - (2) If paid during the second year of a biennial renewal period..... \$13.00
    - v. Branch office renewal registration, dental hygienists ..... \$26.00
  - 3. Registered Dental Assistants:
    - i. Initial registration fee:
      - (1) If paid during the first year of a biennial renewal period..... \$50.00
      - (2) If paid during the second year of a biennial renewal period..... \$25.00
    - ii. Active registration renewal ..... \$50.00
  - (c) Late fee for dentists, dental hygienists, registered dental assistants and limited registered dental assistants ..... \$100.00

- (d) Reinstatement fee for dentists, dental hygienists, registered dental assistants and limited registered dental assistants ..... \$200.00
- (e) Other fees:
  - 1. Limited teaching certificate
    - i. Application ..... \$125.00
    - ii. Annual renewal ..... \$80.00
  - 2. Resident permit ..... \$10.00
  - 3. Registration of dentists by reciprocity–application fee ..... \$250.00
  - 4. Registration of dental hygienists by credentials–application fee ..... \$125.00
  - 5. Verification of licensure ..... \$25.00
  - 6. Duplicate wall certificate ..... \$50.00
  - 7. Duplicate license ..... \$50.00
  - 8. Change of address ..... \$15.00
  - 9. Dental clinic permit:
    - i. Application ..... \$100.00
    - ii. Annual renewal ..... \$50.00
- (f) Except for the fee herein established, other fees prescribed by statute shall continue to be assessed by the Board in the lawful amount.

### 13:30-8.2 Parenteral conscious sedation

- (a) The use of parenteral conscious sedation (hereinafter referred to as “PCS”) by a dentist without first having met the minimum standards of training and procedure as stated herein shall constitute a deviation from the normal standards of practice required of a licensee.
- (b) Parenteral conscious sedation is defined as a depressed level of consciousness produced by the parenteral administration of pharmacologic substances that retains the patient’s ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command. This modality includes administration of medications via all parenteral routes,

that is, intravenous, intramuscular, subcutaneous, submucosal, or inhalation, but does not include nitrous-oxide inhalation analgesia.

- (c) No dentist shall use PCS for dental patients unless such dentist possesses a PCS permit issued by the State Board of Dentistry. The dentist holding such permit shall be subject to review, and such permit shall be renewed biennially.
- (d) Any dentist who wishes to obtain a Board permit to employ PCS shall complete an application as provided by the Board office and shall provide certified or verifiable proof that the dentist has completed a minimum of 100 hours of continuing education in didactic training and 100 hours in clinical training in PCS within three years preceding the application.
- (e) Every applicant for a permit to use PCS shall obtain emergency training by completing “Basic Life Support: Course C” of the American Heart Association or its equivalent and shall maintain current certification in the course. The applicant shall furnish proof of this training and certification to the Board upon application for a permit and proof of recertification upon biennial renewal of the permit.
- (f) Every applicant for a permit to use PCS additionally shall certify to the Board that the dentist employs no fewer than two persons who will be present in the office, at least one of whom will assist in monitoring the patient whenever PCS is employed. The applicant shall further certify that these persons are trained in and capable of monitoring vital signs and of assisting in emergency procedures and that they maintain current certification in “Basic Life Support: Course C” or its equivalent.
- (g) Every applicant for a permit to use PCS shall certify as part of the application that he or she possesses basic equipment and supplies to deal with emergency situations. The permit holder’s facility shall contain the following readily accessible and properly operating equipment: emergency drug kit; positive pressure oxygen; stethoscope; suction; nasopharyngeal tubes; oropharyngeal tubes; and a blood pressure monitoring device.
- (h) Any licensee who holds a current general anesthesia permit issued by the Board of Dentistry shall be authorized to use PCS and shall

not be required to make application for a permit pursuant to this section.

- (i) Any dentist who utilizes the services of a PCS permit holder or an M.D. or D.O. who is a member of the anesthesiology staff of an accredited hospital shall not be deemed to be practicing PCS, provided that such permit holder or anesthesiologist must remain present and bears full responsibility during the entire procedure and until any patient has recovered fully and has been dismissed. Any permit holder invited by a dentist to provide PCS services shall bear full responsibility for compliance with all terms and conditions of this rule including, but not limited to, the minimum requirements for equipment and assisting staff.
- (j) Prior to the administration of a PCS agent for the purpose of controlling pain, a physical evaluation shall be made by the permit holder and a complete medical history shall be obtained which shall include previous medications, allergies and sensitivities. Said history shall be maintained in the files of each dentist for a period of not less than seven years. Specific records on the use of PCS shall be kept as part of every patient chart and shall include the type of agent, the dosage and the duration of sedation.
- (k) Every licensee who holds a PCS permit shall present satisfactory proof to the Board upon biennial renewal that the holder has completed at least 20 credit hours during the previous two year period in continuing education courses devoted to PCS and presented by an accepted program in a suitable institution. Satisfactory credit hours to fulfill this continuing education requirement may be obtained from the following:
  - 1. Professional service review organizations;
  - 2. Teaching;
  - 3. Lectures;
  - 4. Seminars; or
  - 5. Other methods approved by the Board.
- (l) Any designee of the Board shall be authorized during ordinary business hours to enter and inspect any dental office for the purpose of enforcing the provisions of this rule.
- (m) Any licensee who administers PCS without first having obtained a permit from the Board or any licensee who fails to comply with

the rules set forth herein, shall be deemed to have engaged in professional misconduct and/or gross malpractice or negligence and may be subjected to appropriate disciplinary action including an action for the suspension or revocation of the licensee's license to practice dentistry in the State of New Jersey.

### 13:30-8.3 Use of general anesthesia

- (a) The use or employment of general anesthesia by a dentist without first having met the minimum standards of training and procedure as stated herein shall constitute a deviation from the normal standards of practice required of a licensee.
- (b) General anesthesia consists of the deliberate use of any drug, combination of drugs, element or other material with the specified intent to induce a loss of sensation and consciousness.
- (c) No dentist shall employ or use general anesthesia on an outpatient basis for dental patients unless such dentist possesses a permit or authorization issued by the State Board of Dentistry. The dentist holding such permit shall be subject to review, and such permit shall be renewed biennially.
- (d) In order to receive such a permit, the dentist shall apply on an official application form and submit certified or verifiable proof that he or she:
  - i. Has completed a minimum of three years postdoctoral training in oral surgery, or a minimum one-year training course in anesthesiology; or
  - ii. Is a diplomate in oral surgery or is Board-eligible in oral surgery; or
  - iii. Is a fellow of the American Dental Society of Anesthesiology, or is a member of the American Society of Oral Surgeons and/or is a member of the New Jersey Society of Oral Surgeons.
- (e) Every applicant for a general anesthesia permit must certify that he or she employs no fewer than two persons who must be present in the office, at least one of whom shall assist in monitoring the patient under general anesthesia. Such personnel shall be certified by the permit holder as being trained in and capable of monitoring vital signs, and of assisting in emergency procedures.

- (f) Every applicant for a general anesthesia permit must certify that he or she possesses basic equipment and supplies to deal with emergency situations, which equipment and supplies shall be readily accessible and in good order. This shall consist of no less than the list that shall be supplied by the Board.
- (g) Any permit holder invited by a dentist to provide general anesthesia services shall be responsible for compliance with all terms and conditions of this section, including the minimum requirements for assisting staff, as set forth in (e) above, and equipment, as set forth in (f) above.
- (h) The dental facility of any permit holder shall be inspected and approved by the State Board of Dentistry or its designee, once every six years.
- (i) In a dental facility where a permit holder administers general anesthesia pursuant to this section, the mobile equipment and supplies of the permit holder shall be inspected and approved by the State Board of Dentistry or its designee once every six years. "Mobile equipment and supplies," for purposes of this subsection, means any equipment and/or supplies which are transported and used by a permit holder to administer anesthesia in one or more dental facilities.
- (j) This permit shall be renewed biennially upon satisfactory proof being submitted to the Board that the holder has completed at least 20 hours during the previous two year period in continuing education courses devoted to general anesthesia and approved by the Board.
- (k) Satisfactory credit hours to fulfill the continuing education requirement may be obtained in any one of the following areas:
  - 1. Professional service review organizations;
  - 2. Teaching;
  - 3. Lectures;
  - 4. Seminars; or
  - 5. Other methods approved by the Board.
- (l) Prior to the administration of an anesthetic agent for the purpose of controlling pain, a physical evaluation shall be made by the permit holder and a complete medical history which shall include previ-

ous medications, allergies and sensitivities shall be obtained. Said history shall be maintained in the files of each dentist for a period of not less than seven years succeeding the taking of same. Specific records on use of general anesthesia shall be kept and shall include type of agent, dosage and duration.

- (m) Any dentist who utilizes the services of a permit holder or an M.D. or D.O. who is a member of the anesthesiology staff of an accredited hospital shall not be deemed to be practicing general anesthesia provided that such permit holder or anesthesiologist remains present and bears full responsibility during the entire procedure and until any patient regains consciousness. Any permit holder invited by a dentist to provide general anesthesia services shall bear full responsibility for compliance with all terms and conditions of this rule including, but not limited to, the minimum requirements for equipment and assisting staff.
- (n) Every applicant for a permit to use general anesthesia must obtain emergency training by completing the “Basic Life Support: Course C” of the American Heart Association or its equivalent and must maintain current certification in said course. This training also shall be required of all persons who assist in monitoring a patient under general anesthesia. The permit applicant must furnish proof of said training and certification to the Board.
- (o) Any designee of the Board shall be authorized during ordinary business hours to enter and inspect any dental office for the purpose of enforcing the provisions of this rule.
- (p) Any licensee who administers general anesthesia without first having obtained a permit from the Board or any licensee who fails to comply with the rules set forth herein, shall be deemed to have engaged in professional misconduct and/or gross malpractice or negligence and may be subjected to appropriate disciplinary action including an action for the suspension or revocation of the licensee’s license to practice dentistry in the State of New Jersey.

13:30-8.4      (Reserved)

13:30-8.5      Complaint review procedures

- (a) Complaints to the Board shall be in writing.

1. The complaint shall specify the name and address of the licensee(s) involved, the name and telephone number of the complainant, the date(s) of the alleged misconduct, and a brief but detailed explanation of the grounds for the complaint.
  2. The Executive Director of the Board shall review all complaints for sufficiency. When insufficient information is given, he or she shall notify the complainant to supply the needed information without delay. Complaints may be received by telephone, but shall be confirmed in writing as indicated above.
- (b) The Executive Director shall then forward the completed complaint to the licensee(s) involved with a request for all records, X-rays, models, and any other pertinent materials as well as a complete narrative in response to allegations contained in the complaint. Should sensitive material be contained in the complaint, the Executive Director may, with the consent of the Board, withhold all or part of said complaint from forwarding to the licensee(s).
1. The Executive Director shall review all responses for sufficiency. When insufficient information is given, he or she shall notify the licensee(s) to supply the information without delay.
- (c) All completed complaints along with the responses of the licensee(s) shall then be forwarded to a dentist member of the Board for review and to report for consideration at the next scheduled Board meeting concerning review of complaints.
- (d) The Board shall review each complaint in order to make one or more of the following determinations:
1. That the information contained in the complaint and/or the response is insufficient. In such cases, the Board shall notify the complainant or the licensee(s) to provide the needed information without delay;
  2. That the information contained in the complaint and/or response is insufficient and requires information from a subsequent treating licensee(s). In such cases, the Board shall request needed information from said subsequent treating licensee(s) without delay;
  3. That the complaint is of a nature that requires the complainant to be directly examined by another dentist to determine

the state of the patient's dental health and the quality of the services which are the subject matter of the complaint;

4. That the complaint requires an investigative hearing as provided by N.J.S.A. 45:1-18; and/or
  5. That the complaint is of a nature that requires referral for investigative purposes to the appropriate governmental agency.
- (e) Upon completion of its review of a complaint the Board shall make one of the following determinations:
1. No cause for Board action;
  2. Probable cause for action with attendant offer of settlement by mutual consent;
  3. Referral to the Division of Law for action pursuant to N.J.S.A. 45:1-14 et seq.; and/or
  4. Other direction or informal resolution as the Board shall deem appropriate.

13:30-8.6 (Reserved)

13:30-8.7 Patient records

- (a) A contemporaneous, permanent patient record shall be prepared and maintained by a licensee for each person seeking or receiving dental services, regardless of whether any treatment is actually rendered or whether any fee is charged. Licensees also shall maintain records relating to charges made to patients and third party carriers for professional services. All treatment records, bills and claim forms shall accurately reflect the treatment or services rendered. Such records shall include, at a minimum:
1. The name, address, and date of birth of the patient and, if a minor, the name of the parent or guardian;
  2. The patient's medical history;
  3. A record of results of a clinical examination where appropriate or an indication of the patient's chief complaint;
  4. A treatment plan;
  5. The dates of each patient visit and a description of the treatment or services rendered at each visit;

6. Radiographs, if any, of a diagnostic quality and a description of all diagnostic models made, identified with the patient's name and the date;
  7. The date and a description of any medications prescribed, dispensed or sold including the dosage or a copy of any written prescriptions;
  8. Complete financial data concerning the patient's account, including each amount billed to or received from the patient or third party payor and the date of each such bill and payment;
  9. Copies of all claim forms submitted to third party payors by a licensee or the licensee's agent or employee;
  10. Payment vouchers received from third party payors; and
  11. A record of any recommendations or referrals for treatment or consultation by a specialist, including those which were refused by the patient.
- (b) A patient record may be prepared and maintained on a personal or other computer provided that the licensee complies with all of the following requirements:
1. The licensee shall use a computer system which contains an internal, permanently activated date recordation for all entries;
  2. The computer system shall have the capability to print on demand a hard copy of all current and historical data contained in each patient record file;
  3. The licensee shall identify each patient record by the patient's name and at least one other form of identification so that the record may be readily accessed;
  4. The licensee shall post record entries at least once a month so that the entries are permanent and cannot be deleted or altered in any way. The licensee may subsequently make a new entry to indicate a correction to a permanent entry, provided that the new entry generates a permanent audit trail which is maintained in the patient record. The audit trail shall show the original entry, the revised entry, the date of the revised entry, the reason for the change and the identity of the person who authorized the change;

5. The licensee shall prepare a back-up of all computerized patient records at least quarterly, except that if a licensee changes computer systems or software programs, the licensee shall prepare a back-up as of the last date when the system to be replaced shall be used.
    - i. For purposes of this section, “back-up” shall include data files and the software programs required to retrieve those files including the operating system and the program file.
    - ii. The back-ups shall be clearly dated and marked with an external label as “Back-up of computerized data as of (date).”
    - iii. The licensee shall maintain and store at least the last three quarterly back-ups onsite.
    - iv. The licensee shall maintain and store the fourth quarter (annual) back-up offsite; and
  6. The licensee shall provide to the Board upon request any back-up data maintained off premises, together with the following information:
    - i. The name of the computer operating system containing the patient record files and instructions on using such system;
    - ii. Current passwords;
    - iii. Previous passwords if required to access the system; and
    - iv. The name of a contact person at the practice management company, if any, that provides technical support for the licensee’s computer system.
- (c) Patient records, including all radiographs, shall be maintained for at least seven years from the date of the last entry, except that diagnostic models may be maintained only for three years from the date the model is made. Working models and preliminary models need not be maintained.
- (d) Licensees shall provide patient records to the patient or the patient’s authorized representative or another dentist of the patient’s choosing in accordance with the following:
1. Upon receipt of a written request from a patient or the patient’s authorized representative and within 14 days thereof, legible

copies of the patient record including, if requested, duplicates of models and copies of radiographs, shall be furnished to the patient, the patient's authorized representative, or a dentist of the patient's choosing. "Authorized representative" means a person who has been designated by the patient or a court to exercise rights under this section. An authorized representative shall include the patient's attorney or an agent of an insurance carrier with whom the patient has a contract which provides that the carrier be given access to records to assess a claim for monetary benefits or reimbursement. If the patient is a minor, a parent or guardian who has custody (whether sole or joint) shall be deemed an authorized representative.

2. A licensee may require any unpaid balance for diagnostic services only to be paid prior to release of such records. Where treatment of a patient whose dental expenses are paid through Medicaid is discontinued by the dentist prior to completion of the treatment, no charge for the records shall be made, nor shall any payment be required.
  3. The licensee may charge a reasonable fee for the reproduction of records, which shall be no greater than an amount reasonably calculated to recoup the cost of copying or duplicating. To the extent that the record is illegible or prepared in a language other than English, the licensee shall provide a typed or written transcription and/or translation at no additional cost to the patient.
- (e) Licensees shall maintain the confidentiality of patient records, except that:
1. The licensee shall release patient records as directed by the Board of Dentistry or the Office of the Attorney General, or by a Demand for Statement in Writing under Oath, pursuant to N.J.S.A. 45:1-18. Such records shall be originals, unless otherwise specified, and shall be unedited, with full patient names. To the extent that the record is illegible, the licensee, upon request, shall provide a typed or written transcription of the record. If the record is in a language other than English, the licensee shall also provide a translation. All radiographs, models, and reports maintained by the licensee, including those prepared by other dentists, shall also be provided. The costs of producing such records shall be borne by the licensee.

2. The licensee, in the exercise of professional judgment and in the best interests of the patient (even absent the patient's request), may release pertinent information about the patient's treatment to another licensed health care professional who is providing or who has been asked to provide treatment to the patient, or whose expertise may assist the licensee in his or her rendition of professional services.
  3. The licensee shall release information as required by statute or rule, such as the reporting of communicable diseases or gunshot wounds or suspected child abuse, or when the patient's treatment is the subject of peer review.
- (f) If a licensee ceases to engage in the practice of dentistry or it is anticipated that he or she will remain out of practice for more than six months, the licensee or a designee shall:
1. Establish a procedure by which patients may obtain treatment records or agree to the transfer of those records to another licensee who is assuming the responsibilities of that practice;
  2. If the practice will not be attended by another licensee, publish a notice of the cessation and the established procedure for the retrieval of records in a newspaper of general circulation in the geographic location of the licensee's practice, at least once each month for the first three months after the cessation;
  3. File a notice of the established procedure for the retrieval of records with the Board of Dentistry;
  4. Make reasonable efforts to directly notify any patient treated during the six months preceding the cessation of the practice to provide information concerning the established procedure for retrieval of records; and
  5. Conspicuously post a notice on the premises of the procedure for the retrieval of records.
- (g) Patient records need not be maintained in situations where no patient-dentist relationship exists, such as where the professional services of a dentist are rendered at the behest of a third party for the purposes of examination and evaluation only or at the behest of the Board.

### 13:30-8.8 Reporting of incidents or deaths

- (a) All licensees shall report to the State Board of Dentistry within seven days, in writing, any incident occurring in a dental office, clinic or any other dental facility which requires the removal of a patient to a hospital for observation or treatment.
- (b) All licensees shall report to the Board within seven days, in writing, any death which may be related to dental treatment, whether or not the death occurred in a dental office, clinic or other dental facility.

### 13:30-8.9 Display of names; identifying badges

- (a) Every facility offering dental care to the public shall legibly display on all exterior signs or other means of exterior display only those names of the licensees who are responsible for the administration of the facility.
- (b) Every dental care facility where two or more dental licensees are engaged in providing dental care shall legibly display in its office, the names and professional status of all licensees associated with the facility.
- (c) Any licensee shall wear an identifying badge indicating his or her name and professional status while working in the facility.

### 13:30-8.10 Dental insurance forms

- (a) No licensee shall submit any claim, bill or governmental assistance claim to a third party payor for dental services rendered to any patient which involves dishonesty, fraud, deception or misrepresentation.
- (b) No licensee shall submit to a third party payor any claim, bill, or governmental assistance claim which contains any of the following:
  - 1. Any treatment date which does not accurately reflect the date when the service and procedures were actually completed;
  - 2. Any description of a dental service or procedure which does not accurately reflect the actual work completed;
  - 3. Any service or procedure which cannot be justified by the licensee as necessary and proper; or

4. Any statement material to the claim which is known to be false or misleading.
- (c) A licensee who renders dental services or procedures to a patient enrolled in any dental plan with co-payment features and who intends to waive any part of the co-payment or all of the co-payment by the patient shall, when submitting any claim or bill to the third party payor, conspicuously disclose on the face of the claim or bill in a legible manner, or in the electronic claim submission, that the co-payment, or a portion of the co-payment, shall not be billed to, or collected from, the patient.
  - (d) The accuracy of all information contained in written or electronic submissions to a third party payor including predeterminations, claims, bills, or governmental assistance claims, shall be the personal responsibility of the licensee whose name, license number or signature appears on the signature line of the claim. In the case of electronic claims the licensee identified as the provider shall be held responsible for the accuracy of the information whether or not said licensee actually completed the claim. The Board shall presume that the licensee identified on the claim reviewed its contents and approved its submission.
    1. In the event that no licensee is identified on the claim, the patient's dentist of record as defined in N.J.A.C. 13:30-8.15 shall be the licensee responsible for the claim.
    2. It shall not be a defense to an allegation of a violation of this section that the claim was completed or submitted by an agent of the licensee.
  - (e) All insurance records shall be maintained pursuant to the provisions of N.J.A.C. 13:30-8.7.

#### 13:30-8.11 Removable prosthesis identification

- (a) The following words and terms, as used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

“Prosthesis” means an artificial substitute for a missing part of the oral cavity, such as a tooth, used for functional and/or cosmetic reasons.

“Rebasing” means the act of replacing the base material of a denture without changing the occlusal relationship of the teeth.

- (b) Every complete maxillary and mandibular denture and removable partial denture prosthesis constructed by a Board licensee or fabricated pursuant to a work order shall be marked with the name and social security number of the patient for whom the prosthesis is prepared unless the patient objects to the marking. In the event the patient, after being so informed, objects to the marking of the prosthesis, the licensee shall place such objection on the patient's permanent dental record.
- (c) The marking of a dental prosthesis as provided in (b) above shall be accomplished during processing and shall be permanent, legible and cosmetically acceptable. The exact location of the markings and the methods used to place them shall be determined by the licensee.
- (d) If, in the licensee's professional judgment, marking of the prosthesis with the patient's complete name and social security number is not practicable, identification shall be provided as follows:
  - 1. The social security number may be omitted if the patient's complete name is marked; or
  - 2. The initials of the patient may be marked alone if the marking of the patient's full name is impracticable; or
  - 3. The identification marks may be omitted in their entirety if none of the forms of identification specified in (d)1 and 2 above are practicable or clinically safe, provided that the licensee sets forth the reason for the omission of the identification marks in the patient's record.
- (e) Any complete or partial removable dental prosthesis in existence prior to April 15, 1985, which has not been marked in accordance with (b) above, shall be so marked at the time of any subsequent rebasing or repair.
- (f) A reasonable fee may be charged for the marking of the complete or partial removable dental prosthesis.

#### 13:30-8.12 Notification of change of address; service of process

- (a) A licensee shall notify the Board in writing of any change of address from the address currently registered with the Board and shown on the most recently issued license or certificate of registration. Such notice shall be sent to the Board by certified mail, return

receipt requested, not later than 30 days following the change of address.

- (b) Service of an administrative complaint or other Board-initiated process at a licensee's address currently on file with the Board shall be deemed adequate notice for the purposes of N.J.A.C. 1:1-7.1 and the commencement of any disciplinary proceedings.

### 13:30-8.13 Permissible business structures, prohibition on referral fees and fee splitting

- (a) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

“Associate” means a health care professional who is a partner, an employee, a fellow shareholder in a professional service corporation or a fellow member of another permissible practice format, properly organized pursuant to law, such as a limited liability corporation or partnership.

“Board” means the New Jersey State Board of Dentistry.

“Closely allied health care professional” means an individual who provides professional services and is licensed to practice by a professional or occupational licensing board or other State agency, in any of the following fields: dentistry, medicine (or its branches), nursing, optometry and physical therapy.

“Health care provider” means an individual who or entity which provides health care services, including, but not limited to, closely allied health care professionals.

“Limited liability company” means a business entity organized pursuant to N.J.S.A. 42:2B-1 et seq.

“Permissible business format” means:

1. Sole proprietorships;
2. All partnerships, including limited liability partnerships (comprised of dentists or closely allied health care professionals);
3. Professional service corporations (comprised of dentists or closely allied health care professionals); and
4. Limited liability companies (comprised of dentists or closely allied health care professionals).

“Professional service corporation” means a business entity as defined in N.J.S.A. 14A:17-1 et seq.

“Referral” means the sending or directing of a person to any health care provider (other than an associate) for diagnosis, evaluation, treatment or the furnishing of dental or other health services.

“Remuneration” means any salary, payment, distribution of income, dividend, interest income, loan, bonus, commission, kickback, bribe, rebate, gift, free goods or services of more than nominal value, discount, the furnishing of supplies, facilities or equipment, credit arrangement and waiver of financial obligations.

- (b) Dentists may engage in the practice of dentistry in any permissible business format in which they are not shielded from liability for their own breaches of professional duties, they retain responsibility for the quality of care and the appropriateness of their professional judgments, and they are assured access to information and involvement in issues pertaining to quality of care, professional judgment, recordkeeping, advertising practices, and the finances of the permissible business format.
- (c) Dentists may be employed by a permissible business format which includes one or more closely allied health care professionals, including at least one licensed dentist, provided their professional practice is not supervised and evaluated by a professional who is not a dentist.
- (d) Dentists shall not receive, solicit, offer or pay any remuneration as an inducement to make a referral or as compensation for a referral of a patient for a service, product, drug or device or to purchase, prescribe or recommend a product, drug or device. Nothing contained in this section shall prohibit a licensee from paying the reasonable costs of any advertisement permitted pursuant to N.J.A.C. 13:30-6.1 and 6.2.
- (e) Dentists shall not participate in any arrangement or agreement, with any person other than an associate, whereby any remuneration received by that person in payment for the provision of space, facilities, equipment, personnel, marketing or management services used by the dentist is to be determined or calculated as a fixed percentage of, or otherwise dependent upon, the income or receipts derived from the practice of dentistry. Nothing in this section, how-

ever, shall preclude a dentist from entering into a bona fide profit sharing plan or retaining the services of a collection agency.

#### **13:30-8.14      Dental X-rays; lead shields**

Every licensee, as well as any employee or agent of such licensee duly licensed by the Department of Environmental Protection pursuant to N.J.S.A. 26:2D-24 et seq. shall use a lead shield to provide protection to the greatest extent possible to the torso and thyroid areas of patients during all dental X-ray procedures.

#### **13:30-8.15      Dentist of record; fee reimbursement**

- (a) Each patient shall have a dentist of record who shall remain primarily responsible for assuring the proper implementation of the dental treatment plan on such patient regardless of whether the treatment is rendered by the dentist of record, by another dentist or by a dental hygienist rendering such treatment in conjunction with, in the employ of, at the direction or request of, or under the supervision of such dentist of record.
- (b) The name of the dentist of record shall be conspicuously identified on the patient record. If the dentist of record is not identified on the patient record, it shall be presumed that the dentist of record is the owner(s) of the practice in which the patient was treated.
- (c) Each dentist or dental hygienist shall sign or initial each entry on the patient record pertaining to the treatment he or she rendered. If no such entry appears on the patient record, it shall be presumed that such treatment was rendered by the dentist of record, unless the latter shall establish, to the satisfaction of the Board, the identity of the individual who rendered such treatment.
- (d) In a multi-dentist practice, the dentists of record shall not change unless the subsequent treating dentist acknowledges in writing in the patient record that he or she is currently the dentist of record for the patient. The dentist of record shall be changed when the licensee leaves the practice where treatment was provided and the patient elects to continue treatment in the facility in which treatment began.
- (e) A new dentist of record shall be presumed to have obtained or reviewed the patient's medical history and dental records, examined the patient, and either developed a new treatment plan or concurred with the continuance of the pre-existing treatment plan.

- (f) A licensee found to have rendered deficient treatment and the owner of the facility in which the licensee rendered the deficient treatment shall be jointly and severally responsible for the reimbursement to the patient and/or third party payor of any fees as may be directed by the Board.

### 13:30-8.16 Opportunity to be heard

Prior to any suspension, revocation or refusal to renew a license, the licensee shall have an opportunity to be heard consistent with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

### 13:30-8.17 Delegation of physical modalities to unlicensed dental assistants

- (a) A dentist may direct an unlicensed assistant to administer to the dentist's patients certain physical modalities in the limited circumstances set forth in this section.
- (b) Physical modalities, for the purpose of this section, shall be limited to heat, cold, ultrasound, and electrogalvanic stimulation. An unlicensed assistant shall not be permitted to perform any rehabilitative exercise programs. No other physical modalities including transcutaneous electrical nerve stimulation ("T.E.N.S.") and phonophoresis, shall be performed by an unlicensed assistant.
- (c) A dentist may direct the administration of the physical modalities by the unlicensed assistant provided all of the following conditions are satisfied:
  - 1. The dentist shall examine the patient to ascertain the nature of the dental condition or disease; to determine whether the application of a physical modality will encourage the alleviation of dentally related pain and the promotion of healing; to assess the risks of the modality for a given patient and the diagnosed condition, injury or disease, and to decide that the anticipated benefits are likely to outweigh those risks.
  - 2. The dentist shall examine the patient prior to each visit and shall determine all components of the treatment to be performed. This determination shall include all types of modalities to be employed, a delineation of the precise area to which the application of each modality shall be limited, the dosage, wattage, or other applicable setting, the length of the treatment, and any and all other factors peculiar to the risks of that

modality such as strict avoidance of certain parts of the body or static placement of the applicator. This information shall be written on the patient's chart prior to each patient's treatment after the dentist has examined the patient, and it shall be made available at all times to the unlicensed assistant who is responsible for administering the modality. A dentist who employs unlicensed assistants shall submit written notice to the Board of such employment prior to permitting an unlicensed assistant to perform physical modalities as provided in this section.

3. The dentist shall provide instruction to and shall ascertain a satisfactory level of education, competence and comprehension of each unlicensed assistant in regard to all modalities used in that office prior to the use of any modality by an unlicensed assistant. The dentist shall prepare and maintain a written document listing the names of all such unlicensed assistants and outlining the instructions given to each unlicensed assistant. The dentist shall submit such document to the Board upon request.
4. The dentist shall evaluate the patient prior to any subsequent scheduled application of the modality to ascertain that continued treatment is appropriate and that no contraindications to treatment have become apparent.
5. The dentist shall be physically present in the dental office at all times that treatment orders are being carried out by the unlicensed assistant and shall be within reasonable proximity to the treatment room.

- (d) On a health insurance claim form pertaining to physical modalities and requiring certification by the dentist, the dentist shall identify the specific modality applied and shall not generically identify the treatment as physical therapy.

13:30-8.18 (Reserved)

13:30-8.19 Practice name

- (a) A licensee shall not engage in the practice of dentistry under a practice name which is misleading in any way as to the legal form of the practice or as to the persons who are partners, officers, members or shareholders of the practice.

- (b) If a licensee ceases to be associated with a practice through the sale of the business, retirement or death, such licensee's name shall be removed from the practice name within six months of the sale, retirement or death, except as provided in (c) below.
- (c) A practice name may include the name of a licensee who has ceased to be associated with the practice through retirement or death, provided that the laws governing the practice's business format do not prohibit such inclusion, and provided that the status of such a licensee is clearly set forth on the practice letterhead, business cards, signs and advertisements. The status of a retired licensee shall be indicated on the practice letterhead by the word "retired" or by numerals showing the dates the licensee engaged in the practice. The status of a deceased licensee shall be indicated on the practice letterhead by the word "deceased," by numerals showing the dates the licensee engaged in the practice or by numerals showing the years of the licensee's birth and death.

#### 13:30-8.20 (Reserved)

#### 13:30-8.21 Divestiture of interest in professional corporations by disqualified licensees

- (a) As used in this section, the following terms shall have the following meanings unless the context indicates otherwise:

"Disqualify" means to prohibit a licensee from engaging in professional practice and from deriving income from that practice as a result of a revocation, permanent surrender, with or without prejudice, or active suspension of licensure of one year or more. As used in this section, a licensee shall not be deemed disqualified if he or she is permitted to practice dentistry in a limited fashion, is the subject of an order of suspension which is stayed or if the duration of a suspension is less than one year.

"Divest" means to relinquish interest of all shares or equity interest in a professional corporation or other permissible business format, as defined in N.J.A.C. 13:30-8.13.

"Licensee" means any person licensed by the Board to engage in the practice of dentistry.

"Professional practice" means that activity which is defined as "practicing dentistry" pursuant to N.J.S.A. 45:6-19.

- (b) A licensee disqualified pursuant to Board order shall divest his or her interest in each professional corporation for which the holding of a license issued by the Board is a prerequisite. The licensee shall complete such divestiture within 90 days of the entry of the Board order and shall furnish proof of divestiture to the Board.
- (c) If all shareholders of a professional corporation are disqualified pursuant to Board order, the employees of the professional corporation shall cease to engage in professional practice in the professional corporation until the professional corporation is restructured in membership and in a format authorized to engage in professional practice pursuant to N.J.S.A. 14A:17-13.
- (d) Transfer of any shares or equity interest to a member of the licensee's immediate family shall not be deemed a divestiture as required in (b) above unless:
  - 1. The immediate family member held an interest in the professional corporation prior to the licensee's disqualification; and
  - 2. The immediate family member was actively engaged in the practice of dentistry within the professional corporation prior to the licensee's disqualification.

### 13:30-8.22      Validity of diagnostic tests for traumatically induced temporomandibular dysfunction

- (a) As used in this section, the following terms shall have the following meanings, unless the context clearly indicates otherwise.

“Clinically supported” means that a licensee, prior to selecting, performing or ordering the administration of a diagnostic test, has:

- 1. Personally performed a physical examination, making an assessment of any current and/or historical subjective complaints, observations, and objective findings;
- 2. Considered any and all previously performed tests relating to the patient's injury; and
- 3. Documented in the patient record positive and negative findings, observations and clinical indications to justify the test.

“Conservative treatment” means therapy which is not considered aggressive; avoiding the utilization of invasive procedures until such procedures are clearly indicated.

“Diagnostic test” means a service or procedure intended to assist in establishing a dental diagnosis for the purpose of recommending a course of treatment to be implemented by the treating dentist or by the consultant.

“Medically necessary” means that the treatment is consistent with the symptoms or diagnosis, and treatment of the injury:

1. Is not primarily for the convenience of the injured person or provider;
  2. Is the most appropriate standard or level of service which is in accordance with standards of good practice and standard professional treatment protocols, as such protocols may be recognized or designated by the Commissioner of Banking and Insurance, in consultation with the Commissioner of Health and Senior Services or with a professional licensing or certifying board in the Division of Consumer Affairs in the Department of Law and Public Safety, or by a nationally recognized professional organization; and
  3. Does not involve unnecessary diagnostic testing.
- (b) A licensee may charge the patient or bill a third party for the following diagnostic tests to determine the presence of temporomandibular dysfunction (TMD) resulting from traumatic injury, which tests have been determined to have value in the evaluation of traumatic injuries and the diagnosis and development of a treatment plan, when medically necessary and consistent with clinically supported findings:
1. Diagnostically acceptable panoramic x-ray or transcranial temporomandibular joint x-ray: This diagnostic test may be repeated post surgery.
  2. Magnetic resonance imaging (MRI): Where there are clinical signs of internal derangement such as nonself-induced clicking, deviation, limited opening, and pain with a history of trauma to the lower jaw, an MRI is allowable to show displacement of the condylar disc, such procedure following a panoramic or transcranial x-ray and six to eight weeks of conservative treatment. This diagnostic test may be repeated post surgery and/or post appliance therapy.
  3. Tomography: Where there are clinical signs of degenerative joint disease as a result of traumatic injury of the temporo-

mandibular joint, tomograms may not be performed sooner than 12 months following traumatic injury.

- (c) A licensee shall not charge the patient or bill a third party for the following diagnostic tests to determine the presence of temporomandibular dysfunction (TMD) resulting from traumatic injury, as these tests fail to yield data of sufficient value, not otherwise available from a comprehensive clinical examination and/or tests listed in (b) above, which would alter or influence the development, evaluation, or implementation, of a plan of treatment for injuries sustained as a result of trauma:
1. Mandibular tracking;
  2. Surface EMG;
  3. Sonography;
  4. Doppler ultrasound;
  5. Needle EMG;
  6. Electroencephalogram (EEG);
  7. Thermograms/thermographs;
  8. Video fluoroscopy;
  9. Reflexology.
- (d) Notwithstanding the limitations set forth in (c) above, a licensee may perform such enumerated diagnostic tests for which there shall be no charge to the patient or third party payor only after obtaining written informed consent from the patient.

# New Jersey Administrative Code

## Title 13, Chapter 45C.

### Uniform Regulations

#### **SUBCHAPTER 1. LICENSEE DUTY TO COOPERATE AND TO COMPLY WITH BOARD ORDERS**

##### **13:45C-1.1 Applicability, scope and definitions**

- (a) This subchapter shall apply to all licensees of any board, committee or sub-unit within the Division of Consumer Affairs.
- (b) For the purpose of this subchapter, “licensee” shall mean any licensee, permittee, certificate holder or registrant of:
  - 1. The Division of Consumer Affairs;
  - 2. Any professional or occupational licensing board within the Office of ProfessionalOccupational Boards and any committee, or other subunit of a board or committee located within the Division;
  - 3. The Office of Consumer Protection; or
  - 4. The Legalized Games of Chance Control Commission.

##### **13:45C-1.2 Licensee’s duty to cooperate in investigative inquiries**

- (a) A licensee shall cooperate in any inquiry, inspection or investigation conducted by, or on behalf of, a board, the Director or the licensee’s licensing agency into a licensee’s conduct, fitness or capacity to engage in a licensed profession or occupation where said inquiry is intended to evaluate such conduct, fitness or capacity for compliance with applicable statutory or regulatory provisions.
- (b) A licensee’s failure to cooperate, absent good cause or *bona fide* claim of a privilege not identified in N.J.A.C. 13:45C-1.5 as unavailable, may be deemed by the board, the Director, or the licensing agency to constitute professional or occupational misconduct within the meaning of N.J.S.A. 45:1-21(e) or the agency’s enabling act and thus subject a licensee to disciplinary action pursuant to N.J.S.A. 45:1-21(h) or the agency’s enabling act.

### 13:45C-1.3 Specific conduct deemed failure to cooperate

(a) The following conduct by a licensee may be deemed a failure to cooperate and, therefore, professional or occupational misconduct and grounds for suspension or revocation of licensure:

1. The failure to timely respond to an inquiry to provide information in response to a complaint received concerning licensee conduct;
2. The failure to timely provide records related to licensee conduct;
3. The failure to attend any scheduled proceeding at which the licensee's appearance is directed. In the event that a licensee elects to retain counsel for the purpose of representation in any such proceeding, it shall be the licensee's responsibility to do so in a timely fashion. The failure of a licensee to retain counsel, absent a showing of good cause therefor, shall not cause an adjournment of the proceeding;
4. The failure to timely respond or to provide information requested pursuant to a demand under N.J.S.A. 45:1-18 or other applicable law or to provide access to any premises from which a licensed profession or occupation is conducted. Included within this paragraph shall be the failure to respond to any demand for statement or report under oath, the failure to permit the examination of any goods, ware or item used in the rendition of the professional or occupational service and the failure to grant access to records, books or other documents utilized in the practice of the occupation or profession;
5. The failure to answer any question pertinent to inquiry made pursuant to N.J.S.A. 45:1-18 or other applicable law unless the response to said question is subject to a *bona fide* claim of privilege;
6. The failure to make proper and timely response by way of appearance or production of documents to any subpoena issued pursuant to N.J.S.A. 45:1-18 or as may otherwise be provided by law; or
7. The failure to provide to the Board, the Director or the licensing agency timely notice of any change of address from that which appears on the licensee's most recent license renewal or application.

**13:45C-1.4 Failure to comply with Board orders as professional or occupational misconduct**

The failure of a licensee to comply with an order duly entered and served upon the licensee or of which the licensee has knowledge shall be deemed professional or occupational misconduct.

**13:45C-1.5 Unavailability of privileges in investigative or disciplinary proceedings**

- (a) In any investigative inquiry conducted pursuant to N.J.S.A. 45:1-18 or in any disciplinary proceeding conducted pursuant to N.J.S.A. 45:1-21, or as may otherwise be authorized by law, the physician-patient privilege, psychologist-patient privilege, marriage and family therapist-client privilege, professional counselor-client privilege, associate counselor-client privilege, social worker-client privilege and the alcohol and drug counselor-client privilege shall be unavailable.
- (b) Any statements or records otherwise subject to a claim of the stated privileges which may be obtained by the Board, its agent or the Attorney General pursuant to N.J.S.A. 45:1-18 shall remain confidential and shall not be disclosed unless so ordered by a court of competent jurisdiction, the appropriate licensing board or the Office of Administrative Law in a contested case.

**13:45C-1.6 Maintenance of and access to statements, records or other information that is subject to a privilege declared unavailable**

- (a) Any statements, records or other information which may be subject to any privilege declared unavailable in this subchapter shall be maintained in a secure place and manner by:
  - 1. The evidence custodian within the Division of Consumer Affairs, Enforcement Bureau;
  - 2. The professional or occupational licensing board and the committee or other subunit of a board or committee located within the Division which has a direct connection with, or a need for access to, the matter to which the statements, records or other information pertain; or
  - 3. A Deputy Attorney General.

- (b) Except as may be otherwise ordered as provided in the subchapter, access to statements, records or other information shall be afforded only to employees of the Attorney General, the Enforcement Bureau, or the Board or other subunit of the Division having a direct connection with, or a need for access to, the matter to which the statement, records or other information pertain.
- (c) The statements, records or other information shall be retained only for the period of time during which an investigation remains open or until the completion of all administrative or judicial proceedings relating thereto, at which time they shall be returned to the licensee or other person from whom they were obtained. In the absence of such licensee or other person, the statements, records or other information shall be returned to the patient, where appropriate.